

**H.R. 4000—RESTORATION OF MISSING
PERSONS ACT**

Y 4. SE 2/1 A: 995-96/46

H.R. 4000—Restoration of Missing Persons Act

BEFORE THE
MILITARY PERSONNEL SUBCOMMITTEE
OF THE
COMMITTEE ON NATIONAL SECURITY
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTH CONGRESS
SECOND SESSION

HEARING HELD
SEPTEMBER 10, 1996



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1997

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H. R. 4000

To amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1996

Mr. DORNAN, (for himself, Mr. GILMAN, Mr. SAM JOHNSON of Texas, Mr. TALENT, Mr. ALLARD, Mr. ARCHER, Mr. ARMEY, Mr. BACHUS, Mr. BAKER of California, Mr. BAKER of Louisiana, Mr. BALLENGER, Mr. BARR of Georgia, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BASS, Mr. BATEMAN, Mr. BEREUTER, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BLILEY, Mr. BLUTE, Mr. BOEHLERT, Mr. BOEHNER, Mr. BONILLA, Mr. BONO, Mr. BREWSTER, Mr. BROWNBACK, Mr. BRYANT of Tennessee, Mr. BUNN of Oregon, Mr. BUNNING of Kentucky, Mr. BURR, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMP, Mr. CANADY of Florida, Mr. CASTLE, Mr. CHABOT, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. CHRYSLER, Mr. CLINGER, Mr. COBLE, Mr. COBURN, Mr. COLLINS of Georgia, Mr. COMBEST, Mr. CONDIT, Mr. COOLEY of Oregon, Mr. COSTELLO, Mr. COX of California, Mr. CAMPBELL, Mr. CRAMER, Mr. CRANE, Mr. CRAPO, Mr. CREMEANS, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DAVIS, Mr. DEAL of Georgia, Mr. DELAY, Mr. DIAZ-BALART, Mr. DICKEY, Mr. DOOLITTLE, Mr. DREIER, Mr. DUNCAN, Ms. DUNN of Washington, Mr. EHLERS, Mr. EHRLICH, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. EVERETT, Mr. EWING, Mr. FAWELL, Mr. FIELDS of Texas, Mr. FLANAGAN, Mr. FOLEY, Mr. FORBES, Mrs. FOWLER, Mr. FOX of Pennsylvania, Mr. FRANKS of New Jersey, Mr. FRANKS of Connecticut, Mr. FRELINGHUYSEN, Mr. FRISA, Mr. FUNDERBURK, Mr. GALLEGLY, Mr. GANSKE, Mr. GEKAS, Mr. PETE GEREN of Texas, Mr. GILCHREST, Mr. GILLMOR, Mr. GOODLATTE, Mr. GOODLING, Mr. GOSS, Mr. GRAHAM, Ms. GREENE of Utah, Mr. GREENWOOD, Mr. GUNDERSON, Mr. GUTKNECHT, Mr. HALL of Texas, Mr. HANCOCK, Mr. HANSEN, Mr. HASTERT, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HEFLEY, Mr. HEINEMAN, Mr. HERGER, Mr. HILLEARY, Mr. HOBSON, Mr. HOEKSTRA, Mr. HOKE, Mr. HOLDEN, Mr. HORN, Mr. HOUGHTON, Mr. HOSTETTLER, Mr. HUNTER, Mr. HUTCHINSON, Mr. HYDE, Mr. INGLIS of South Carolina, Mr. ISTOOK, Mrs. JOHNSON of CONNECTICUT, Mr. JONES, Mr. KASICH, Mr. KIM, Mr. KING, Mr. KINGSTON, Mr. KLUG, Mr. KNOLLENBERG, Mr. KOLBE, Mr. LAHOOD, Mr. LATOURETTE, Mr. LARGENT, Mr. LATHAM, Mr. LAUGHLIN, Mr. LAZIO of New York, Mr. LEACH, Mr. LEWIS of California, Mr. LEWIS of Kentucky, Mr. LIGHTFOOT, Mr. LINDER, Mr. LIVINGSTON, Mr. LOBIONDO, Mr. LONGLEY, Mr. LUCAS of Oklahoma, Mr. MCCOLLUM, Mr. MCCREERY, Mr. MCDADE, Mr. MCHALE, Mr. MCHUGH, Mr. MCINNIS, Mr. MCINTOSH, Mr. MCKEON, Mr. MCNULTY, Mr. MARTINI, Mr. MANZULLO, Mr. METCALF, Mrs. MEYERS of Kansas, Mr. MICA, Mr. MILLER of Florida, Mr. MINGE, Ms. MOLINARI, Mr. MONTGOMERY, Mr. MOORHEAD, Mrs. MORELLA, Mr. MYERS of Indiana, Mrs. MYRICK, Mr. NETHERCUTT, Mr. NEUMANN, Mr. NEY, Mr. NORWOOD, Mr. NUSSLE, Mr. OBERSTAR, Mr. OXLEY, Mr. ORTIZ, Mr. PACKARD, Mr. PARKER, Mr. PAXON, Mr. PETERSON of Minnesota, Mr. PETRI, Mr. PICKETT, Mr. POMBO, Mr. PORTER, Mr. PORTMAN, Ms. PRYCE, Mr. QUILLEN, Mr. QUINN, Mr. RADANOVICH, Mr. RAMSTAD, Mr. REED, Mr. REGULA, Mr. RIGGS, Mr. ROBERTS, Mr. ROGERS, Mr. ROHRBACHER, Ms. ROS-LEHTINEN, Mr. ROTH, Mrs. ROUKEMA, Mr. ROYCE, Mr. SALMON, Mr. SANDERS, Mr. SANFORD, Mr. SAXTON, Mr. SCARBOROUGH, Mr. SCHAEFER, Mr. SCHIFF, Mrs. SEASTRAND, Mr. SENSENBRENNER, Mr. SHADEGG, Mr. SHAW, Mr.

SHAYS, Mr. SHUSTER, Mr. SISISKY, Mr. SKEEN, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mrs. SMITH of Washington, Mr. SMITH of Michigan, Mr. SPENCE, Mr. SOLOMON, Mr. SOUDER, Mr. STEARNS, Mr. STOCKMAN, Mr. STUMP, Mr. TATE, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mr. TEJEDA, Mr. THOMAS, Mr. THORNBERRY, Mrs. THURMAN, Mr. TIAHRT, Mr. TRAFICANT, Mr. TORKILDSEN, Mr. UNDERWOOD, Mr. UPTON, Mrs. VUCANOVICH, Mr. WALKER, Mr. WALSH, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WELDON of Pennsylvania, Mr. WELDON, of Florida, Mr. WELLER, Mr. WHITFIELD, Mr. WHITE, Mr. WICKER, Mr. WOLF, Mr. YOUNG of Alaska, Mr. ZELIFF, and Mr. ZIMMER) introduced the following bill; which was referred to the Committee on National Security

A BILL

To amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTORATION OF MISSING PERSONS AUTHORITIES APPLICABLE TO DEPARTMENT OF DEFENSE AS IN EFFECT BEFORE ENACTMENT OF NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997.

(a) **APPLICABILITY TO DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES AND CONTRACTOR EMPLOYEES.**—(1) Section 1501 of title 10, United States Code, is amended—

(A) by striking out subsection (c) and inserting in lieu thereof the following:

“(c) **COVERED PERSONS.**—Section 1502 of this title applies in the case of the following persons:

“(1) Any member of the Armed Forces on active duty who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for.

“(2) Any civilian employee of the Department of Defense, and any employee of a contractor of the Department of Defense, who serves with or accompanies the Armed Forces in the field under orders who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for.”; and

(B) by adding at the end the following new subsection:

“(f) **SECRETARY CONCERNED.**—In this chapter, the term ‘Secretary concerned’ includes, in the case of a civilian employee of the Department of Defense or contractor of the Department of Defense, the Secretary of the military department or head of the element of the Department of Defense employing the employee or contracting with the contractor, as the case may be.”.

(2) Section 1503(c) of such title is amended—

(A) in paragraph (1), by striking out “one military officer” and inserting in lieu thereof “one individual described in paragraph (2)”;

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(C) by inserting after paragraph (1) the following new paragraph (2):

“(2) An individual referred to in paragraph (1) is the following:

“(A) A military officer, in the case of an inquiry with respect to a member of the Armed Forces.

“(B) A civilian, in the case of an inquiry with respect to a civilian employee of the Department of Defense or of a contractor of the Department of Defense.”.

(3) Section 1504(d) of such title is amended—

(A) in paragraph (1), by striking out “who are” and all that follows in that paragraph and inserting in lieu thereof “as follows:

“(A) In the case of a board that will inquire into the whereabouts and status of one or more members of the Armed Forces (and no civilians described in subparagraph (B)), the board shall be composed of officers having the grade of major or lieutenant commander or above.

“(B) In the case of a board that will inquire into the whereabouts and status of one or more civilian employees of the Department of Defense or contractors of the Department of Defense (and no members of the Armed Forces), the board shall be composed of—

"(i) not less than three employees of the Department of Defense whose rate of annual pay is equal to or greater than the rate of annual pay payable for grade GS-13 of the General Schedule under section 5332 of title 5; and

"(ii) such members of the Armed Forces as the Secretary considers advisable.

"(C) In the case of a board that will inquire into the whereabouts and status of both one or more members of the Armed Forces and one or more civilians described in subparagraph (B)—

"(i) the board shall include at least one officer described in subparagraph (A) and at least one employee of the Department of Defense described in subparagraph (B)(i); and

"(ii) the ratio of such officers to such employees on the board shall be roughly proportional to the ratio of the number of members of the Armed Forces who are subjects of the board's inquiry to the number of civilians who are subjects of the board's inquiry."; and

(B) in paragraph (4), by striking out "section 1503(c)(3)" and inserting in lieu thereof "section 1503(c)(4)".

(4) Paragraph (1) of section 1513 of such title is amended to read as follows:

"(1) The term 'missing person' means—

"(A) a member of the Armed Forces on active duty who is in a missing status; or

"(B) a civilian employee of the Department of Defense or an employee of a contractor of the Department of Defense who serves with or accompanies the Armed Forces in the field under orders and who is in a missing status.".

(b) REPORT ON PRELIMINARY ASSESSMENT OF STATUS.—(1) Section 1502 of such title is amended—

(A) in subsection (a)(2)—

(i) by striking out "10 days" and inserting in lieu thereof "48 hours"; and

(ii) by striking out "Secretary concerned" and inserting in lieu thereof "theater component commander with jurisdiction over the missing person";

(B) by redesignating subsection (b) as subsection (c);

(C) by inserting after subsection (a) the following new subsection (b):

"(b) TRANSMISSION THROUGH THEATER COMPONENT COMMANDER.—Upon reviewing a report under subsection (a) recommending that a person be placed in a missing status, the theater component commander shall ensure that all necessary actions are being taken, and all appropriate assets are being used, to resolve the status of the missing person. Not later than 14 days after receiving the report, the theater component commander shall forward the report to the Secretary of Defense or the Secretary concerned in accordance with procedures prescribed under section 1501(b) of this title. The theater component commander shall include with such report a certification that all necessary actions are being taken, and all appropriate assets are being used, to resolve the status of the missing person."; and

(D) in subsection (c), as redesignated by subparagraph (B), by adding at the end the following new sentence: "The theater component commander through whom the report with respect to the missing person is transmitted under subsection (b) shall ensure that all pertinent information relating to the whereabouts and status of the missing person that results from the preliminary assessment or from actions taken to locate the person is properly safeguarded to avoid loss, damage, or modification.".

(2) Section 1503(a) of such title is amended by striking out "section 1502(a)" and inserting in lieu thereof "section 1502(b)".

(3) Section 1513 of such title is amended by adding at the end the following new paragraph:

"(8) The term 'theater component commander' means, with respect to any of the combatant commands, an officer of any of the Armed Forces who (A) is commander of all forces of that armed force assigned to that combatant command, and (B) is directly subordinate to the commander of the combatant command.".

(c) FREQUENCY OF SUBSEQUENT REVIEWS.—Subsection (b) of section 1505 of such title is amended to read as follows:

"(b) FREQUENCY OF SUBSEQUENT REVIEWS.—(1) In the case of a missing person who was last known to be alive or who was last suspected of being alive, the Secretary shall appoint a board to conduct an inquiry with respect to a person under this subsection—

"(A) on or about three years after the date of the initial report of the disappearance of the person under section 1502(a) of this title; and

"(B) not later than every three years thereafter.

"(2) In addition to appointment of boards under paragraph (1), the Secretary shall appoint a board to conduct an inquiry with respect to a missing person under this subsection upon receipt of information that could result in a change of status of the missing person. When the Secretary appoints a board under this paragraph, the time for subsequent appointments of a board under paragraph (1)(B) shall be determined from the date of the receipt of such information.

"(3) The Secretary is not required to appoint a board under paragraph (1) with respect to the disappearance of any person—

"(A) more than 30 years after the initial report of the disappearance of the missing person required by section 1502 of this title; or

"(B) if, before the end of such 30-year period, the missing person is accounted for."

(d) PENALTIES FOR WRONGFUL WITHHOLDING OF INFORMATION.—Section 1506 of such title is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) WRONGFUL WITHHOLDING.—Except as provided in subsections (a) through (d), any person who knowingly and willfully withholds from the personnel file of a missing person any information relating to the disappearance or whereabouts and status of a missing person shall be fined as provided in title 18 or imprisoned not more than one year, or both."

(e) INFORMATION TO ACCOMPANY RECOMMENDATION OF STATUS OF DEATH.—Section 1507(b) of such title is amended adding at the end the following new paragraphs:

"(3) A description of the location of the body, if recovered.

"(4) If the body has been recovered and is not identifiable through visual means, a certification by a practitioner of an appropriate forensic science that the body recovered is that of the missing person."

(f) SCOPE OF PREENACTMENT REVIEW.—(1) Section 1509 of such title is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection (c):

"(c) SPECIAL RULE FOR PERSONS CLASSIFIED AS 'KIA/BNR'.—In the case of a person described in subsection (b) who was classified as 'killed in action/body not recovered', the case of that person may be reviewed under this section only if the new information referred to in subsection (a) is compelling."

(2)(A) The heading of such section is amended by inserting ", **special interest**" after "**Preenactment**".

(B) The item relating to such section in the table of sections at the beginning of chapter 76 of such title is amended by inserting ", **special interest**" after "**Preenactment**".

H.R. 4000—RESTORATION OF MISSING PERSONS ACT

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATIONAL SECURITY,
MILITARY PERSONNEL SUBCOMMITTEE,
Washington, DC, Tuesday, September 10, 1996.

The subcommittee met, pursuant to call, at 2:08 p.m. in room 2118, Rayburn House Office Building, Hon. Robert K. Dornan (chairman of the subcommittee) presiding.

STATEMENT OF HON. ROBERT K. DORNAN, A REPRESENTATIVE FROM CALIFORNIA, CHAIRMAN, MILITARY PERSONNEL SUBCOMMITTEE

Mr. DORNAN. The Subcommittee on Military Personnel of the National Security Committee comes to order, and it comes under the heading of "promises made/promises kept." I am proceeding with a long series of hearings on not only the missing in action and POW agonies from Indochina, Laos, Cambodia and up and down that beautiful torn country Vietnam, but also the so-called cold war, which was very bloody and very hot, which Korea and Vietnam were subsets, the biggest battles. But one, the intelligence battles fought for decades, were the ferret pilots, the spy planes around the periphery of the then properly called Evil Empire and the fate of some of these crews. And all the way back to World War II, where we did not control the entire battlefield because one of our allies was an equally heinous dictator right up there, with Stalin—right up there with Hitler and Mussolini and Tojo, with Stalin killing more people in the end because he had 29 years to kill and slaughter, and Hitler only had 12. He didn't control many of the POW camps at the end of the war, and American—you always want to say "boys," but they were young, quickly matured men, young warriors who had the misfortune to have a Slavic, Russian or Ukrainian last name. A lot of them were not returned, and thousands of prisoners were in camps that the Red army overran.

We are still going to proceed and try to get the truth of all of this, and today is a particularly important hearing because of the opening panel. I am conducting this hearing to outline the many compelling reasons for this 104th Congress, which has about 3 weeks of legislative duty left, less than 3 weeks, to try and find a vehicle to attach H.R. 4000, and I am going to try to seek support through these hearings.

It is called the POW/MIA Protection Act. I introduced it on August 2 with the support of a record 254 original cosponsors, and we got those signatures in 2 days. I think that is a double record, for the time it took to get them, and it also shows to the family members here that they are not forgotten, this is still a hot issue of pas-

sion to get to every Republican, and I didn't even work the other side and got 20 or so Democrats, and our only Independent Member from Vermont volunteered to come on board, and I think we are past 265. But those were original cosponsors, 254, and I hadn't even asked the Speaker. I wanted to get him last.

This bill is intended to restore to public law—and it is still public law right now, so that is confusing, since February 10 when Mr. Clinton signed this into law—but it comes out of law when the defense authorization conference report is put before him to be signed into law. So we are ahead of the problem of what is law being taken out of law because it is so important.

It will restore to public law, or take out of danger of not being restored if we can get it done in the next few weeks, public law, essential provisions of which are the Dole/Gilman/Dornan Missing Service Personnel Act of 1996 that are set to be repealed in the fiscal year 1997 defense authorization bill. This effort, which today is one of the hearings, to ensure an honest accounting for American heroes from previous wars who became prisoners of war, who are still missing in action, as well as provide protection for service persons and civilian defense employees serving in the line of fire today and in the future. Equally important, the POW/MIA Protection Act would further ensure that POW/MIA's families are treated with respect by the U.S. Government and are provided with full disclosure of facts regarding their loved one's fate.

Ongoing military actions involving American air, land and sea forces in Iraq and maybe today, Bosnia, Haiti, Somalia, Korea, it underscores the urgent need to restore into law when they come out these important provisions.

I have been involved with the families of our POW's on the second cycle of my life, in Korea, since I was a 20-year-old pre-cadet waiting to go to pilot training, but specifically in an unbroken chain since May of 1965—the date is wrong here, May 18, 1965, Pope's birthday—when my best friend in the Air Force, then just made major, or young captain about to make major, and now lieutenant colonel, David Hrdlicka was shot down in Laos and photographed alive there in captivity, some months later, a photograph popped up in Pravda of all things. For more than 30 years an intransigent bureaucracy has withheld information for all sorts of reasons from his wife Carol, who will testify today—hi, Carol—and has provided in some cases, this bureaucracy, outright disinformation regarding unsuccessful rescue attempts that were made during the early years of David's capture.

In an August 10, 1992 letter to Mrs. Hrdlicka, Charles Trowbridge, then deputy chief for the Defense Department's Office for POW/MIA's, who in 1966 signed some of the first reports on the status of David Hrdlicka, stated, quote, "In answer to her specific request, please inform Mrs. Hrdlicka we have no records that the U.S. Government ever mounted a rescue attempt for either Colonel Hrdlicka or Colonel Charles Shelton."

However, during that same summer of 1992, in open testimony during the Senate Select Committee on POW/MIA's, which was scrutinized by Defense Department officials who actively participated in the Senate Select Committee activities behind the scenes and in the room, at least some representatives, they heard retired

Major General Richard Secord, who had been Chief of Air Operations in Laos for the CIA during the 1966–68 period and was the Laos desk officer for the Department a few years later, from 1972 to 1975. Dick Secord stated under oath that he was personally involved in an aborted attempt to rescue Colonel Hrdlicka and Colonel Shelton in late '66, early '67.

In addition, Mrs. Hrdlicka found that U.S. State Department documents—has found these documents at the Library of Congress from June 1965 that detail an attempted rescue operation by U.S.-backed Hmong forces in which either Colonel Hrdlicka or Colonel Shelton were temporarily under friendly control, then recaptured by Laotian communist forces.

The Defense POW/MIA Office had a responsibility, and has it now, to tell the Hrdlickas the truth about all of these efforts. The POW/MIA Protection Act would reinstate an important provision that invokes penalties for U.S. officials who knowingly and willingly—very tough standard—withhold information related to disappearance, whereabouts and status of a missing person. In this case, I guess ignorance would be an excuse because “willingly” means willingly.

This provision would not penalize honest mistakes, but any official who purposely attempts to hold back information from family members of missing service people would be held accountable.

To safeguard our brave servicemen and women such as Captain Scott O'Grady, whom I talked to a few days ago for the umpteenth time—he was shot down while flying in support of peacekeeping operations in the Balkans—an important provision of the POW/MIA Protection Act would provide extra assurance that a missing service person is reported by his or her unit commander within 48 hours of the theater commander; then, of course, in real time from then on to the chiefs of staff of the four branches of service and to the Chairman of the Joint Chiefs.

Historically, there have been times when individuals or even an entire ship has gone missing in the bureaucratic labyrinth with ghastly results. A profound example is the World War II incident involving the U.S. Navy cruiser U.S.S. *Indianapolis*, which, after delivering one of the atomic bombs to the island of Tinian, was sunk by a Japanese submarine, the last ship sunk of the war. Its disappearance went unnoticed by the U.S. Government for 5 days, which led to nearly 500 sailors and marines perishing at sea.

The following composite press report recounts this tragic incident. Just a few lines from this, then I will put the—well, it is a short report, so I will read it.

The men initially were confident of rescue, but watched in frustration as planes passed high overhead without spotting them for days. For the most part they were without food and fresh water. Delirium set in after 1 day. Some men began attacking other survivors. They thought they were the enemy. Others died in agony after drinking sea water. Some fantasized a spigot with fresh water several feet down, tore off their life jackets and swam down. Still others swam toward imaginary islands or dove down to underwater hotels.

For 5 days survivors clung to a few life rafts or bobbed in life jackets as dehydration, exposure, then swarming sharks killed hundreds. Bodies bobbed in the water like corks, shark fins quietly slithering among them. At first the sharks fed on the dead. Then they began attacking the 800 survivors of the torpedo attack.

The crew floated helplessly for 5 days knowing that death could come at any instance. We had, quote, “no protection from the sharks. Hell, half of your body was

in the water." I recall "kicking them in the nose. I kicked them in the side of the head." That was Seaman Giles McCoy.

You would then see their fins disappear, then turn sideways and come in at you and go on to strike you. It was the scariest after dark. Each dawn the survivors counted heads to see who had made it through the night attacks.

Despite the violence under the water, the ocean surface was remarkably quiet. Men just suddenly disappeared, life jackets and all. Rescue finally came by accident when a Navy subchaser plane flew overhead and reported the disaster. Eight hundred of the ship's 1,196 sailors and officers survived. Only 316 were pulled out of the water alive.

Missing for 5 days at command headquarters in the Philippines, and I had an argument with a lawyer this morning about whether 2 days was too soon.

The provision in H.R. 4000 that mandates reporting of missing persons within 48 hours would help to guarantee that another incident like the U.S.S. *Indianapolis* tragedy never occurs again.

Other important provisions of the Missing Service Personnel Act that would be restored by H.R. 4000 when it is taken out by the President's signature are: A requirement that if a body is recovered, cannot be identified by visible means, a certification by a credible forensic authority be made. Argued that with a lawyer this morning.

The requirement that the status of persons that were last known to be alive are reviewed every 3 years if, and only if, the next of kin requests a review. So this is not a bureaucratic problem with everybody being automatically reviewed.

Three, the ability of families to request the status review of Korean war cases involving a person who was killed in action, but whose body was not recovered, if compelling information is uncovered.

H.R. 4000 would also restore protection for civilian contract employees of the Defense Department—this is what people on our first panel will address—who are in the field—that is law right now—says, under orders accompanying our military.

Ask Congressman Ron Packard who is with us today. His father was taken prisoner in World War II on the eve of Christmas Eve by the Japanese on Wake Island. On December 23d he was a civilian construction worker. I just learned from Ron Packard today that he was MIA for a year and a half. That is in a declared war with an ally from World War I, Japan, who was the signatory of all Geneva Convention protocols about identifying as fast as possible through the Red Cross to relieve next of kin suffering who is held a prisoner.

Ask the Agency for International Development members who are with us today, or from Vietnam, or "civilian" fighter pilots—civilian in quotes—who flew in Laos with their Air Force commission hidden in the bottom drawer of some commander's desk if they deserve protection under U.S. law; the T-28 and gunship C-47 pilots in Laos and other aircraft. To strip these key protection provisions out of public law for American civilians who choose to serve their country in extremely hazardous combat operations—some of it covert—is dishonorable in the extreme. The Protection Act would ensure these employees are given equal protection under law.

The POW/MIA Protection Act is supported, as the current provisions are supported, by all the major veterans organizations except one, and in that case most of the leaders are in support. It is sup-

ported by the POW family organizations, the American Legion, the Disabled American Veterans, the National Vietnam Veterans Coalition, Marine Corps League, Vietnam Vets of America, the Korean Cold War Families Associations, National League of POW Families, and the National Alliance of POW/MIA Families.

With that I would like to ask our first panelists to come—oh, I am sorry. Mr. Pickett, my vice chairman, any opening statements?

Mr. PICKETT. Thank you, Mr. Chairman. I have a brief opening statement that in the interest of time I will submit to the record so we can hear from our witnesses this afternoon. Thank you.

Mr. DORNAN. Thank you.

[The prepared statement of Mr. Pickett follows:]

OPENING REMARKS – REP. OWEN PICKETT
MILITARY PERSONNEL SUBCOMMITTEE HEARING
POW-MIA ISSUES (H.R. 4000)
September 10, 1996

Thank you, Mr. Chairman. I, too, join you in welcoming our witnesses today.

This hearing anticipates a full committee mark-up later this week of H.R. 4000, your bill to restore certain provisions of the Missing Persons section in title 10, United States Code that were modified or repealed by the conference report to accompany the Fiscal Year 1997 National Defense Authorization Act.

H.R. 4000 has more than 250 cosponsors. In my experience, relatively few bills come along that so quickly attract such strong support. I believe that this support reflects the Members' sensing of strong constituent interest in POW-MIA issues, as well as the intuitive conclusion that the Congress went too far in making the changes that it did in the conference agreement.

The witnesses we will hear today, based on their long-standing personal involvement in POW-MIA issues, not only will create a public record in clear support of H.R. 4000, but they also will educate

us regarding some of the shortcomings that now exist in the process the United States uses to account for its prisoners of war and missing in action. For example, the Defense Department position opposing including DOD civilians and DOD contract employees in the scope of the Missing Persons Act ignores the growing presence of such personnel in direct support of US forces deployed in combat, as well as in peacekeeping operations.

The numbers of civilians deployed are revealing. DOD figures show the following:

OPERATION	DOD CIVILIANS	CONTRACTORS	TOTAL
Joint Endeavor (Bosnia)	1,014	651	1,675
Uphold Democracy (Haiti)	3,527	614	4,141
Restore Hope (Somalia)	12	294	306
Desert Shield/Storm	5,213	9,174	14,387

Given these numbers, Mr. Chairman, I do not doubt the need for legislative initiatives like H.R. 4000. So I look forward to the testimony of our witnesses today, as well as joining you in support of H.R. 4000. Thank you.

Mr. DORNAN. Let me defer to the aforementioned chairman that I introduced you to the crowd when you were rushing here, and you got here faster than we thought. The Chairman of the International Relations Committee. I told them you have been to Hanoi twice, and I told them that when I looked at you, you are just a big heart with legs, walking around. Don't get too emotional, Chairman Gilman.

**STATEMENT OF THE HON. BENJAMIN A. GILMAN, A
REPRESENTATIVE FROM NEW YORK**

Mr. GILMAN. Thank you, Mr. Chairman. Thank you for inviting me to appear before your committee hearing today and to hear the testimony of our colleagues and some of our other witnesses, and I commend you, Mr. Chairman, for your long-time continued leadership on this issue, such a painful issue for so many of our families. I am pleased that we are once again taking a hard look at some important testimony, an important statute.

Mr. Chairman, last year with your help we secured a victory for our service personnel, their families and the families of our POW/MIA's by the passage of H.R. 945, the Missing Service Personnel Act. That legislation was a landmark victory for both those who had family members left behind in America's past wars as well as those who, God forbid, should become MIAs or POWs in some future conflict.

H.R. 945 had widespread, bipartisan support in the House and received unanimous support as part the Department of Defense Authorization Act of 1996. Regrettably though, that support did not extend to the Senate or to the Pentagon itself, and unable to prevent the passage of H.R. 945 earlier this year, the opponents of our legislation waited until this summer to attach a Senate amendment to the 1997 defense authorization conference report. That amendment essentially gutted the Missing Service Personnel Act.

H.R. 4000 would restore the provisions stricken from the Missing Service Personnel Act by the Senate amendment, and at this time I just would like to note that there are certain important provisions. You recited how important it is, it was, Mr. Chairman, that they initiate a search within a 48-hour period, and we could have avoided the tragic episode of having cruiser U.S.S. *Indianapolis* when only a small number of the 1,500 in personnel were recovered.

A more recent example is that of Air Force fighter pilot Scott O'Grady, who was rescued 6 days after being shot down over Bosnia, survived his ordeal, but only barely. It is safe to say that if the military waited 10 days before reporting Captain O'Grady missing, they wouldn't have found him alive.

Then the other provision you referred to also covering civilian employees is certainly an important measure. They devote so much of their service, and time and dedication that we should not be excluding them from any provisions of this kind of a statute.

And third, the forensic evidence provision needs to be restored requiring if a body were recovered and couldn't be identified by visual means, that a certification by a credible forensic authority must be made, and we could avoid some of those ridiculous cases that happened over the past few years.

And finally, Mr. Chairman, the provision which would require criminal penalties for government officials who knowingly and willfully withhold information related to the disappearance, whereabouts, the status of any missing personnel is certainly an important provision. I don't see how anyone could be opposed to that kind of a provision, yet the Senate amendment removed it from law.

Closing, Mr. Chairman, I would like to make several comments. First, the opponents of the Missing Service Personnel Act have to this day never offered any credible reasons for their opposition to the legislation. Some have raised the charge it will create additional bureaucracy. But I believe that the opposite was true. It will help streamline the bureaucracy and improve the investigation process.

Second, the Missing Service Personnel Act has not been public law long enough to be adequately evaluated. To repeal provisions of law after only 5 months doesn't make sense, especially when that law has not had a chance to be tested.

And once again, Mr. Chairman, thank you for this opportunity to have a hearing on this issue, to appear before your committee, to be able to listen to the testimony of your witnesses, and I look forward to hearing the testimony of our colleagues, our fellow panelists, and be happy to answer any questions and look forward to hearing their response to some of our questions. Thank you, Mr. Chairman.

Mr. DORNAN. Well, Chairman Gilman, being a fellow Chairman on one of our major committees here in the House, you can add now to the proceedings by asking questions of our colleagues Mr. Johnson and Mr. Packard, rather than we first thought of having your distinguished self sitting there at panel. So just stay, but rise with me, because before you came in, I had noticed that they swore in even Members of the Congress on the Senate side. All my colleagues tell the truth all the time, but they agreed to show good example to our civilian witnesses. We all agreed to take this oath again. If the two gentlemen would come to the table and raise their right hand.

[Witnesses sworn.]

Mr. DORNAN. Thank you. Please be seated.

I am going to take this chronologically because Congressman Packard of the beautiful golden coast of Southern California between Los Angeles and San Diego, and Ron represents my oldest daughter and three of my grandchildren and son-in-law, but his father was taken prisoner, as I told you the other day, Sam, on Wake Island, and since your wars are Korea and Vietnam, let me start with Ron. He has no written testimony.

You can abbreviate the story as best you can, Ron, but please emphasize what your dad told you about everybody being approached as an American citizen and in a sense being deputized and told they would have to defend Wake Island even though they had hardly started to build the pill boxes and the revetments to defend the island; that they would have to make due with the sand bags and whatever was up. And they got a rifle and helmet and said, you are under Cunningham and Devereaux, Navy and Marine commanders. Fight for your country. It is all yours.

STATEMENT OF THE HON. RON PACKARD, A REPRESENTATIVE FROM CALIFORNIA

Mr. PACKARD. Thank you, Mr. Chairman. It is a pleasure to be before your subcommittee. Mr. Pickett, Mr. Peterson, I appreciate the chance to be a witness here today.

I want to compliment the Chairman, Mr. Dornan, for his leadership role, as Mr. Gilman has expressed, particularly on MIA and POW issues. Certainly you have been one of the national leaders, and certainly the leader in the Congress, on these issues.

As you mentioned, Mr. Chairman, I do not have a prepared statement. I think my story is something I would have difficulty in really writing down, but at the same time I think it needs to be told at least not in so much detail, but I want to compliment you on your effort to try to still keep the government involved in those that are missing in action, prisoners of war, whether they be civilians or military personnel.

In 1941 we were about to lose our farm in Idaho. It was a large family. My parents had 17 children, and 13 of them were home at the time that the war broke out. We—in an effort to avoid losing the farm, my dad took a job with Morrison Camoots, who was under government contract to build the air base on Wake Island. Dad left in early 1941 and went over and was in the process of building the air base, of course, when—Mr. Watts, I apologize for missing you. I didn't mean to miss you—was in the process of building the air base on Wake Island when a war broke out, and Pearl Harbor was bombed.

On the very same day Pearl Harbor was bombed, on December 7—actually it was December 8th on Wake Island because of the International Date Line—Wake Island was bombed about 11 o'clock that same day and was bombed every day until the island fell. The island fell 2 weeks after Pearl Harbor, and, of course, then the Japanese overran the island, and my dad, along with 1,200 other civilian workers and about 485 marine personnel and navy personnel, uniformed personnel, were taken prisoner.

It was a year and a half before my mother and I and the rest of our family—I was 10 at the time and was 15 when Dad got back out of the prison camp—it was a year and a half before we found out that Dad was even alive. We didn't know where he was. We didn't know whether he was living or not. Had it not been for government resources and government information and government intelligence, we would have not even known that Dad was alive. We had no resource, no other place to go.

I remember vividly the families of prisoners of war or those that were on Wake Island because many of them were from the area that my dad was, and they didn't know where to turn. They had the same dilemma. They didn't know whether their father, brother or husband was still alive or not. A year and a half was a long time for a family not to know. Without government assistance we would have had no place to turn to.

During the battle of Wake Island, as the Chairman mentioned, when the war broke out, actually when the planes came in and the world knew that the bombing was imminent, all personnel were released, particularly the civilian personnel were released, to take care of themselves, but they all volunteered to fight alongside the

marines. Some were assigned to fight actually with guns, and some were assigned to carry ammunition, and some were assigned to move the gun placements on a nightly basis from one place to another because of the nature of the battle. My dad was assigned, and he was a middle-aged man, he was 49 at the time, and he was assigned to work at the hospital to take care of the wounded. So each had their assignments, but each were involved in doing what the military was required to do to try to protect the island.

As I mentioned, he spent the full war in prison camp, first in Shanghai, then later on was transferred to a prison camp in—two different prison camps in Japan proper. Dad was a very religious man and was assigned to be the chaplain of the camp when he first arrived, and he did his service, the chaplain, and as such he kept a record, even though it was illegal and he would have been shot had it been discovered, but he kept a record on a daily basis of those that died and those that were killed and those that were mistreated in the prison camp. And he had rolled that little parchment up and put it inside a piece of bamboo that he hauled out and kept that hidden under his bedroll during the war, and when he got home, he went and visited the homes of every one on his list that died during the prison and went to the families of those people, the prisoners, and reported how they died, the date they died and the circumstances under which they were killed or died.

That was a rather, I think, unique thing to do, but he took the trouble before he ever got to our farmhouse in Idaho, he and my mother went to all of these homes on the way home from the prison camp to make sure that the families knew what had happened to their loved ones. And then when he completed those visits, he took that record and turned it over to the government.

They—I think the point that I would like to make—I don't want to get into the details of story of my dad because I sit beside people, witnesses, that have much more of a personal involvement in this issue than I do, even though my father was—we followed the war very carefully. I was 10 when he left and 15 when he got back, so every battle in the Pacific was important to me and my brothers and sisters and my family because it meant getting closer to the liberation of my father.

I was rather startled to read part of the letter or note from Bob Stump where it says no one could ever perceive or comprehend the absolute barbaric treatment that American prisoners experienced in World War II, especially at the hands of the Japanese. In the Pacific 11,107 Americans or 40 percent of those taken prisoners died in captivity. Had we known that, as a family, I think we would have been much more concerned. We had a constant conviction that Dad would come home. That contrasted with only 1 percent—40 percent in Japan—1 percent in Europe didn't return.

I won't get into the horrible treatment that he received and that of the others because I don't think that is germane to the issue today. I think the issue is, however, is it appropriate that the government be of assistance to those that are civilian prisoners or missing in action in trying to determine their whereabouts and keeping track of the location and informing the families of their disposition?

I don't know who we could have turned to. There was no organization or agencies that were private or nongovernment at the time that we could turn to for information about Dad. After 2 years, we started getting a 6-month letter through the censored processes, and we were able to send Red Cross boxes about every 6 months, but the fact is we would have not had anyplace to go to had it not been the government agencies that would have been able to give us information about the disposition of my dad and the other prisoners.

I think that it would be unconscionable for the government to divest themselves of the responsibility of taking and keeping an account of all missing in action, all prisoners of war, because when they are under contract with the government, they are there because the government is requiring them to be there or the work to be done.

To be very honest with you, my dad was the beginning—or his group was the beginning—the Seabees. There were no Seabees at the time. It was contractors and civilians that did the work of building the bases and providing the infrastructure for our uniformed men and women to do their job during any war. The civilians are a part of that effort as much I think as anyone, even though the Seabees is now an official uniformed body. They were not at that time. My dad was the beginning or the precursor or the preface to the Seabees. They were not an official group. That came later, of course. But they did what the Seabees did, and that is went in with their carpenters and heavy equipment and made the runways and barracks and built the facilities that made the war effort effective. It would be impossible for the government not to be involved in that, and I don't know who the families could turn to otherwise.

Mr. DORNAN. At 15, when did you find out that some of the younger prisoners had been left behind were executed in late 1944?

Mr. PACKARD. We didn't know that until after the war. We had no idea that some of the prisoners—it was by chance that my dad wasn't one of those 200 that was left behind that was executed a year or two later in a vicious way, in a very brutal way. It was really fortunate that my dad was able to spend his time in the prison camp there even though he was beaten and mistreated, but he survived, and he wouldn't have survived had he been left on Wake Island to service the needs of the Japanese occupiers.

Mr. DORNAN. I had a discussion on this point with a very thoughtful Defense Department lawyer this morning. He seemed very reasonable. He made the point that civilians can walk away anytime they want, they can quit their contract and jump on a plane for home, I guess, was the example he was making.

But there are examples, and it didn't occur to me this morning, it was very difficult to leave Wake Island between December 8 and December 24, and the one PBY Catalina that left was a very lucky young officer carrying an intelligence package. He was ordered to go, and I think a nurse or two, and that was it. So that was a case I did not think of where there are situations in war where even the civilians just can't walk off the battlefield and disappear.

Mr. PACKARD. I am aware, Mr. Chairman, of only one civilian that was invited to get on that last PBY leaving Wake Island, the

rest of them were military personnel, and that was the head of the civilian corps. He was invited to go. He refused to go, and no other civilian was even invited.

Mr. DORNAN. Did he survive the war?

Mr. PACKARD. He survived the war, to my knowledge.

I think when my dad and every other contractor agreed to go to Wake Island, they signed a contract that they would remain there until the job was done, and they would be paid from the time they left San Francisco until the time they returned to San Francisco. Obviously that contract was not honored because my dad never received any pay once the war broke out and he was taken prisoner. We paid for the farm, but not because of Dad's work. It was because of the ingenious effort of my mother. The fact is that those civilians couldn't have left because they were under contract to remain there.

Mr. DORNAN. From Molly Pitcher in the Revolutionary War, a wife, not a line officer, all the way down to people in harm's way right now, as tech reps and civilian intelligence people, and this technological war, this situation that we occasionally get into, there are a lot of people that are serving their country in civilian clothes just as valiantly as people in uniform.

Mr. Pickett or any of the other Congressmen, are there any questions? Pete, how about you?

Mr. PETERSON. I have a question. I think Ron has made an excellent case for what has already been done. I think the military did follow up and take care of your father appropriately. The question here is how do we mandate this in the various—into law; that is to say, take a military statute, one that applies to military, and make that applicable to civilians? I am not sure we can make that transition legally.

Mr. PACKARD. I think two processes, Mr. Peterson, are underway, one in the upcoming procession of the defense appropriations bill. I think that there is a difference in the language of the House bill and the Senate bill on this very issue. We would like to encourage the conferees to have the Senate recede to the House language. I think that would be one process that would be helpful, that keeps the government involved.

Second, I think Mr. Dornan has authored legislation that would clearly identify the government's responsibility in the record-keeping and the intelligence work of nonuniformed prisoners of war and missing in action, and I would certainly urge all Members to not only cosponsor, which I understand over 200 now do, but cosponsor that bill, then help to move it through the process.

Mr. DORNAN. Let me take the next witness, then we can question them.

Mr. PETERSON. Mr. Chairman, one final point on that, and that is if we do this, and I want to help in whatever way we can, and I want to make sure that we understand we are dealing with a battlefield here as opposed to just going down to the local supermarket here circumstance, that if a civilian employee is now in the combat zone, then there has to be some responsibility for that individual to be accountable to the commander as well. That is to say, if they can leave of their own volition, then there has to be some sort of reporting process within those organizations, just like it is with our

military, or else our commanders can't really give them the protection. Or will they actually know whether or not they have departed for a mission that was military-originated, or was it one that they just went back to take an RAH&R or whatever? Do you see where I am coming from? We have to make clarification in whatever piece of legislation that makes accountability both ways.

Mr. PACKARD. I am not the one to try to determine that—the appropriate language for such legislation. That is—that certainly should come from either of you on the committees of jurisdiction. But I am simply here to testify to the importance of the government being—having some responsibility into keeping track of, keeping the records of, doing the intelligence work that will assist the families of prisoners of war and missing in action, whether they be military uniformed or nonuniformed citizens, of having that information available and being somewhat responsible for the collection and distribution of that data, families simply who are under terrible duress at that time.

Our biggest concern was whether Dad was alive or not, but we had no place to go, no agencies to turn to other than the government. The government didn't have—and they gave us the information as they got it, but had we not had that available resource, we would have been the entire war effort not knowing what was going on. It was not for 2 years that we started getting letters, and even that was only 6 months apart. It was not—the communications would have been totally absent without some government involvement, and that is my—I think that is the burden of my testimony is the government at this time, which I understand is the effort being made is to divest the government of any responsibility to keep track of nonuniformed personnel, I think would be a tragic mistake for the families.

Mr. PETERSON. Clearly the government has to have a role in this. I think what we are arguing are the specificity. My wife didn't know I was even alive for 3 years, no contact, no nothing. So I can appreciate what your family went through at that time. The question is how do we craft a piece of legislation that works in all instances, that doesn't let something fall through the cracks of the process? So I appreciate your testimony, and I—

Mr. PACKARD. I would appreciate being involved or at least consulted, and I will give what little I can do. But it is men like yourself and Sam Johnson and other witnesses that will be before this committee today that will be far more personally acquainted with what needs to be done. I am only speaking as a child of one.

Mr. PETERSON. I appreciate your testimony. You are a good friend, and we have worked together a long time, and I appreciate it.

Mr. DORNAN. Thank you.

Ron, I want to hear from Sam Johnson of Texas here, then see if the panel wants to talk about some of these things with specificity, the seven items. I call them six and a half because they left one of them halfway intact out of that Senate-House conference.

Do you have an opening statement, Mr. Johnson, or anything you want to say in opening?

STATEMENT OF THE HON. SAM JOHNSON, A REPRESENTATIVE FROM TEXAS

Mr. JOHNSON. Mr. Chairman, I would like unanimous consent to enter my statement—my whole statement in the record, and if you don't mind, I would just like to make a few comments.

I thank you again for the opportunity to speak before you on this issue. I would like to continue what Ron was talking about.

Pete, I understand where you are coming from, but it seems to me that if a civilian is part of the service environment, the military, then they are included as the same as if he were a uniformed serviceman. And the way we are going today where we are drawing down our active force and relying more and more on civilian contract, it seems to me we could get caught in a position and of having contract civilians in a war zone. Probably got them in Bosnia right now.

Mr. PETERSON. Sam, I agree with you absolutely. The number of civilians in a war zone are going to increase rather than diminish. You are absolutely on target. My only point was we have to have in a systematic way the knowledge of where that person is, just like we do all of our military people, and I don't think the system is now set up to take care of that.

Mr. JOHNSON. It would appear to me that if the commanders in the various areas don't know where their civilian operators are, something is wrong with the system today as it exists. It seems to me we are all Americans, and this government needs to take care of anybody that gets put into harm's way defending this Nation for whatever reason.

I am appalled that the Senate would take that provision out of the bill, Mr. Chairman, as well as the missing persons status. Today's media is so instant that if you don't respond to someone who knows of a loss or suspects it immediately, then something is wrong. You can't wait 10 days for something like that to occur.

As a prisoner survivor of the Vietnam war, I know the kind of despair that brings to families, and I think there is nothing more aggravating than a family not knowing and the government simply not caring or ignoring the fact that those people are missing. And I think our families deserve the respect and full accounting that they have long sought for our soldiers who are missing in action, and to think that they wouldn't get the full benefit of forensic checks to make sure it is the guy that they want and not somebody else is ridiculous.

I still can't figure out why our Senate took that stuff out. I know that you have opposed that all along, and I don't think there is any point in regurgitating that, but I will tell you that the part where it talks about holding people in our government responsible when they lied about the fact or distorted the fact or failed, in fact, to bring all the information to the various families and people who are interested is a gross miscarriage of justice in my view, and the idea of having them requiring criminal penalties for government officials who knowingly and willfully withhold information related to any disappearance or whereabouts ought to be Federal law.

And you can't prove that anything was withheld from our government at this stage of the game, but there are people that make accusations, and even today when you see Vietnamese who helped us

come out of Laos late without any reason, and everybody said we don't have anybody over there, and yet here they walk out, and today we are finding out in Korea as a member of the U.S.-Russia Commission, with Peterson on that issue, that some of our guys may have been taken to Russia and used as guinea pigs in medical laboratories and then killed.

We want to find out what has happened to our people, and it is nobody's responsibility except this government's to do it, and our families still wonder about some of our people, even back as far as World War I and II. We can't solve that now, but for sure we ought to fix the problem and make sure it doesn't happen again in the future.

So I know Pete and I disagree on this, but I am still very much opposed to the normalization of relations with Vietnam, always have been, and I think that until they start turning over some records that they said they were going to do when we recognized them, that I'm not sure that their desire for normal diplomatic relations was anything about communism, and I never have been able to trust one of those guys ever.

So I think the changes the conference report made are unacceptable. Their changes to current law, I think, guarantees that no serviceman will be forgotten, and no one will be overlooked, and someone—this government will be made accountable, and the memory and families of our POWs is important in that regard, and I think but for the grace of God, both Pete and I could have still been there. I just thank the Lord that we were able to come home, and I know that he along with I are interested in making sure that the families get a full accounting of where our servicemen are from as far back as we can find it.

You know, he quoted from Stump's letter. He has got a great letter, and I would just like to use his final quote here and get it in the record because Abraham Lincoln said to the mother of five sons who were lost on the field of battle: I cannot refrain from tendering to you the things of the Republic they died to save. I pray that our Heavenly Father may assuage the anguish of your bereavement and leave you only the cherished memory of the loved and lost and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom.

It is time to get America back on track. Thank you for letting me testify today.

Mr. DORNAN. Thank you, Congressman Johnson.

[The prepared statement of Mr. Johnson follows:]

MR. CHAIRMAN

I AM PLEASED TO BE HERE TODAY AND I THANK YOU FOR THE OPPORTUNITY TO SPEAK BEFORE YOU ON THIS ISSUE.

AS A PRISONER AND SURVIVOR OF THE VIETNAM WAR, I KNOW FIRST HAND THE DEVASTATION AND DESPAIR THAT WAR BRINGS TO THE FAMILIES AND FRIENDS OF THE MEN AND WOMEN WHO WERE PRISONERS OF WAR AND THOSE WHO ARE STILL MISSING IN ACTION. IN MY VIEW, THERE IS NOTHING MORE AGGRAVATING THAN A FAMILY NOT KNOWING AND THE GOVERNMENT SIMPLY NOT CARING OR IGNORING THE FATE OF OUR MISSING

SERVICEMEN AND WOMEN. I BELIEVE, IN MY HEART, THAT THESE FAMILIES AND ALL AMERICANS DESERVE THE RESPECT AND THE FULL ACCOUNTING THEY HAVE LONG SOUGHT ABOUT OUR SOLDIERS WHO ARE MISSING IN ACTION.

THIS IS WHY I OPPOSED THE FY 1997 NATIONAL DEFENSE AUTHORIZATION ACT CONFERENCE REPORT AND THAT IS WHY I STRONGLY SUPPORT THE CHAIRMAN'S BILL. THE CHAIRMAN, BY INTRODUCING HIS BILL, SEEKS ANSWERS TO THE PAST AND PROVIDES PROTECTIONS FOR OUR SOLDIERS IN THE FUTURE. WE MUST ADOPT THE CHAIRMAN'S BILL BECAUSE THE CONFERENCE REPORT IN MY MIND MAKES FUNDAMENTAL

CHANGES TO SEVEN VERY IMPORTANT PROVISIONS
THAT WERE PUT IN LAW LAST YEAR THAT ENSURED
OUR SOLDIERS WOULD NEVER BE FORGOTTEN.

SOME OF THE PROVISIONS WHICH NEVER SHOULD
HAVE BEEN CHANGED INCLUDE:

- 1) REQUIREMENTS THAT MILITARY
COMMANDERS REPORT AND BEGIN
SEARCHING FOR A MISSING SERVICE
MEMBER WITHIN 48 HOURS, RATHER
THAN 10 DAYS.
- 2) REQUIREMENTS THAT IF A BODY IS
RECOVERED AND CANNOT BE

IDENTIFIED BY VISIBLE MEANS, THAT A
CERTIFICATION BY A CREDIBLE
FORENSIC AUTHORITY MUST BE MADE.

- 3) REQUIREMENTS THAT THE STATUS OF
PERSONS WHO WERE LAST KNOWN TO
BE ALIVE ARE REVIEWED EVERY THREE
YEARS IF, AND ONLY IF, THE NEXT OF
KIN REQUEST A REVIEW.

- 4) REQUIRING CRIMINAL PENALTIES FOR
GOVERNMENT OFFICIALS WHO
KNOWINGLY AND WILLFULLY
WITHHOLD INFORMATION RELATED TO
THE DISAPPEARANCE, WHEREABOUTS

AND STATUS OF A MISSING PERSON.

MR CHAIRMAN, AS YOU KNOW, MANY OF US HAVE FOUGHT WITH YOU TO HAVE THESE REQUIREMENTS PUT IN LAW FOR A LONG TIME NOW. THESE ARE ISSUES WHICH ARE OF GREAT IMPORTANCE, PARTICULARLY TO THE FAMILIES OF THOSE WHO HAVE NOT YET COME HOME. THIS LAW WILL NOT ONLY ENSURE THAT FOREIGN GOVERNMENTS WORK WITH US, BUT IT WILL HELP ENSURE THAT OUR OWN GOVERNMENT IS HELD RESPONSIBLE TO THOSE WHO HAVE FOUGHT BRAVELY FOR AMERICA.

AS MANY OF YOU KNOW, I WAS, AND STILL AM, VERY MUCH OPPOSED TO THE NORMALIZATION OF

RELATIONS WITH VIETNAM. I SIMPLY DO NOT BELIEVE THAT NORMLIZATION WILL MAKE VIETNAM ANY MORE GENEROUS IN TURNING OVER THEIR RECORDS TO US THAN THEY HAVE BEEN IN THE PAST. VIETNAM'S DESIRE FOR NORMAL DIPLOMATIC RELATIONS WAS THE ONLY INCENTIVE THEY HAD TO IMPROVE COOPERATION. THAT INCENTIVE IS NOW GONE.

FURTHERMORE, IN THE TIME SINCE NORMALIZATON, THERE HAS NOT BEEN THE GREAT IMPROVEMENT IN COOPERATION THAT WAS PROMISED.

BY TAKING OUT THESE CRUCIAL PROVISIONS OF OUR CURRENT MISSING PERSONS SECTION NOW, CAN WE

NOT SAY THE SAME THING ABOUT OUR OWN GOVERNMENT? WITHOUT THIS LANGUAGE, WHAT INCENTIVES WILL THEY HAVE TO CONTINUE TO MEET THEIR OBLIGATIONS TO THE FAMILIES AND THE AMERICAN PUBLIC?

MR CHAIRMAN, THE CHANGES THE CONFERENCE REPORT MADE ARE UNACCEPTABLE. THEY ARE CHANGES TO CURRENT LAW--LAW WHICH I THINK GUARANTEES THAT NO SERVICEMAN WILL BE FORGOTTEN, NO ONE WILL BE OVERLOOKED, AND SOMEONE IN THIS GOVERNMENT WILL BE MADE ACCOUNTABLE. THE MEMORY AND THE FAMILIES OF OUR POW's AND MIAs DESERVE NO LESS.

MR CHAIRMAN, AS YOU KNOW, THIS IS A PERSONAL ISSUE FOR ME. I WAS A POW IN VIETNAM FOR NEARLY SEVEN YEARS. BUT I WAS ONE OF THE LUCKY ONES, I MADE IT HOME. I HAVE FRIENDS WHO ARE STILL LISTED AS MISSING IN ACTION AND WHO HAVE NEVER RETURNED FROM THE VIETNAM WAR.

I WOULD HOPE THAT THIS GOVERNMENT WOULD HAVE MORE RESPECT FOR THOSE AND FOR THE FAMILIES OF THOSE WHO GAVE EVERYTHING IN THE NAME OF FREEDOM. I URGE ALL MY COLLEAGUES TO SUPPORT HR 4000, AS IT WILL RESTORE NOT ONLY THE PROVISIONS WHICH HAVE BEEN FOUGHT FOR, BUT IT WILL ALSO RESTORE A SENSE OF INTEGRITY AND HONOR TO A GOVERNMENT (AN ADMINISTRATION) WHICH IS SORELY IN NEED OF IT.

Mr. DORNAN. Did you have any questions, Mr. Pickett?

Mr. PICKETT. No, I don't, Mr. Chairman. I want to thank both of our witnesses for being here, and Chairman Gilman, too, for his remarks today.

Mr. DORNAN. Did you have any questions?

Mr. GILMAN. Mr. Chairman, I just want to commend both of our distinguished colleagues for taking the time to express their thoughts, both of them very cogent statements, and I appreciate their longtime concern with regard to our MIA/POWs.

Mr. PACKARD. Mr. Chairman, before we leave, may I address a little bit further Mr. Peterson's question? I don't know whether it is standard procedure, but I suspect that it is, at least it was in World War II when our prisoners were taken in Japan, they kept civilian prisoners separate from the military. The 300 or so marines that survived Wake Island and were taken prisoner were put in a different prison camp than the survivors, the 1,200 civilians.

I don't know whether that implies that the requirements, international as well as the United States requirements, are different regarding the whereabouts of the marines, or the uniform prisoners' is different than the requirements of the civilians, but I would hope that the U.S. Government and international agreements would be such that the disposition of information would be as important and as much a requirement for civilian prisoners of war as it would be for uniformed prisoners of war.

I think that our Federal Government would be just as anxious and just as interested, or should be at least, for the Marines, Navy, Air Force and Army prisoners of war as they would be—civilian prisoners of war as they would be for the military. I don't know that was the case in World War II. I think they knew exactly where, and the disposition of their marines were taken off of Wake Island, what prison camp they were in, and whether they were alive or not and whether or not they were cared for. I am not sure that was the case, at least in the early part of my dad's experience.

Mr. DORNAN. Did Mr. Lewis or Mr. Watts have a question for either of the panel?

Any others?

Mr. PETERSON. I thank both of my colleagues for their testimony and comments. We are all in this together. This is not something that we have people pulling on the opposite end of the ropes. We want to do what is right here, and my only comments are to do it right so that it fits all the various circumstances under which we find civilians and military.

Our country is not going to—we have learned this lesson, I hope, for God's sake, that we are not going to leave anybody on the battlefield regardless of whether they are USAID, CIA, Marine Corps or whatever they are. This country is going to bring everybody home or find out what happened to them. We don't want to go through this incredible wound in our national pride again, and that is essentially what this is all about.

I thank you for your testimony, and I think we are team players on this.

Mr. DORNAN. Just one closing remark here to my two colleagues and to Pete Peterson. Nine members here, three of us are fighter pilots. That can start a fight or discussion anywhere, but Pete and

I were on a mission this morning over three and a half hours on all of these things, hearing from Defense Department people about some of their objections, and Mr. Peterson had some fine-tuning, and for the family members I mean fine-tuning, what he called surgical suggestions, to fix some of these. But Pete, at the end of the 3 hours and 40 minutes, at the very last moment you were called away, and the fighter pilots debriefed the mission afterward.

I found out that some of the same lawyers that were there this morning said in so many words they weren't going to help us fix this last year, that they hated the whole thing. This was the year before. They wanted it all killed. When it got through last year's conference and was signed into law February 10, then they accepted a few things that they could see in a public relations standpoint they weren't going to get changed, but they proceeded to gut seven key things.

Now they are interested in fine-tuning, and I just got a message from the Speaker's Office, three words: Hang in there. If we keep these in, I made a promise to these people, and Pete was there, that then we can fine-tune it. I would rather be in the driver's seat now and keep what is law today as February the 10, and next year with them perforce having to finally deal with us and fine-tune, I am willing to make adjustments to some of these things. It is to bad it didn't get signed into law by the Commander in Chief, and it is in law right now.

So without marching down all of these, I will come to Mr. Peterson, Mr. Pickett, Sonny Montgomery, my colleagues and Ben Gilman on the House Floor, and I think it is time to crank in Frank Lautenberg, who was one the original cosponsors—he put in some good Democratic input on this—and reverse what has happened here in closed conference at 11:52 at night on a Monday night, when I was available and would have driven in to the Hill. As I sat out, my agent, Saturday and Sunday, Brian Lipka, had to find out if anything was cooking in this room or the committee rooms, and nothing was, and see if we can't make some adjustments on this for next year.

There is just the one thing I wanted to not ask you Ron, but comment. Your dad was a one-man committee with your mother at his side, I never heard this, to be a resolution team, and, to use a word that is used with pain now, closure, to bring closure to all of these families as an eyewitness.

There was an article a week ago Monday—a week ago, yeah, Monday, in the Washington Times of a man in Korea who did what your dad did, a military prisoner taking down, and double copies, infinitesimal records, and they found one, and he brought this record out of hundreds of names of the very day these men died and a one- or two-word description of their death, and it has never been given to the Defense Department. People are, let's move on. No interest.

I am trying to find this because this is our first day back, if they are looking at it now, the records he brought back from the Korean War and how many people could have resolution and have eyewitness of their death in Japan or in Shanghai prisons. So that certainly is an attribute to your dad.

We forgot one thing for the record, your dad's full name, so we can honor him.

Mr. PACKARD. His name was Forrest L. Packard.

Mr. DORNAN. Forrest L. Packard, an American civilian warrior.

Mr. PACKARD. Few things made me more proud then when I found out he went around and visited the families in the prison camps.

Mr. DORNAN. Gentlemen, thank you very much. Appreciate your contribution today.

If the next panel—and I will read off the names—would please come forward. Michael Bengé, one of those civilian prisoners taken during the Tet offensive, worked for the Agency for International Development and watched civilians in Indochina for a different reason, to spread the good news of Jesus Christ, watched them die along the trail as they not headed up the trail to North Vietnam, but went into circuitous circles around through Cambodia, Laos, Vietnam, around and around for a year. Larry Stark, another U.S. Navy civilian contractor, Vietnam-era prisoner of war. Known Larry for 20 years, as I have known Michael. Carol Hrdlicka, wife of the Col. David Hrdlicka, my wife's best friend, as her husband David was my best friend in my last active duty Air Force base, George Air Force Base; and Donna Downes Knox, legal counsel and member of the board of directors—Air Force daughter as I like to call her since I have three of those—Korean/Cold War Family Association of the Missing; and J. Thomas Burch, Jr., also known for years, president of the National Vietnam Veterans Coalition and the veterans' cochair for Bob Dole's Presidential campaign efforts.

A more distinguished panel I have not had before me in this room in memory, and what I will do is just go left to right here and start with Michael Bengé. If you had a full opening statement, Michael, it will be put in the record. If you want to read large parts of it or summarize, it is your call. Please proceed.

Oh, before I do that, let me ask the whole panel to stand, please. Raise your right hand.

[Witnesses sworn.]

Mr. DORNAN. Thank you. Please be seated.

Mr. Bengé, please proceed.

STATEMENT OF MICHAEL D. BENGE, FORMER GOVERNMENT CIVILIAN EMPLOYEE, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT, AND VIETNAM-ERA PRISONER OF WAR

Mr. BENGE. Chairman Dornan, subcommittee Members, distinguished panel Members and other Congress Members, ladies and gentlemen, I wish to thank you for the opportunity to testify before the subcommittee in support of H.R. 4000 to restore language that was gutted from the Missing Persons—Missing Service Personnel Act by Senator John McCain's amendment to the defense authorization bill.¹

¹ I was a Prisoner of War in Vietnam from January 1968 to March 1973. While serving as a Foreign Service Officer with the Civil Operations and Revolutionary Development Support program, I was captured in the Central Highlands of South Vietnam by the North Vietnamese, and was held in numerous camps in South Vietnam, Cambodia, Laos and North Vietnam. For efforts in rescuing eleven Americans before being captured, I was given the State Department's highest award for heroism, and one for valor.

Mr. Chairman, unless I am mistaken, I believe that the Founding Fathers of the United States of America created and funded the military to protect civil society; that is, the civilian population. And unless I am mistaken, this is still the intent of Congress and the Government of the United States. Mr. Chairman, I would like to ask you, am I right or wrong?

Mr. DORNAN. When you said that, I turned to Mr. Gilman and I said, well, there is a new take, it is about as simple as it gets. We are supposed to defend civilians. My last words were not, abandon them or tell them you are on your own. I am covered by the Defense Department, you are not. Goodbye. Thanks for building the pill box. Too bad it didn't work.

Please proceed. We always miss the most obvious.

Mr. BENGEE. Mr. Chairman, there are certain people in the U.S. Congress and in the Department of Defense who seem to have the opinion that civil society was created to fund the military, and the Department of burdened with the responsibility of protecting civilians.

A few weeks ago, I switched channels on my TV at home, and there was Senator John McCain, who had the audacity to introduce Air Force Captain Scott O'Grady before the Republican Convention in San Diego. To me, Senator McCain introducing Captain O'Grady is the epitome of hypocrisy, for in all likelihood, O'Grady would have been either killed or a prisoner of war after being shot down in Bosnia last year if the present Missing Persons Act that McCain has gutted was the law at that time.

I'm sure if Captain O'Grady was here today testifying before this committee, he would tell you if the military had waited for 10 days before reporting him missing and launching a search and rescue operation, as Senator McCain would have it, in all likelihood he would not have survived. At the least, Captain O'Grady would still be a prisoner of war, a captive in the hands of the war criminals Radovan Dradzic and Ratko Mladic, who perpetrated the genocide in Bosnia.

Mr. DORNAN. I am not going to interrupt any of the other witnesses, but this one is too germane. I have already asked Scott O'Grady. He appeared before me in one of the exhibition centers in the Farm Bureau Exposition. I was looking at the vectored thrust on some new GE engines, and he appears before my face, and we renewed acquaintanceship, and I asked him right on the spot.

I had also taken notes of some of the irony of the introduction, and I asked him about this 48-hour, 10-day thing, and your surmise is right on target. He opted for the 48 hours since he was picked up on day 6.

Proceed.

Mr. BENGEE. Besides the above, there were five other important provisions that Senator John McCain gutted from the Missing Service Personnel Act which your bill would restore. The legislation would provide criminal penalties for knowingly and willfully withholding information from a missing person's file. This is an extremely important provision, and I cannot understand how Senator McCain in good conscience could delete this from the act. Who is he protecting in the Department of Defense's Prisoner of War and Missing in Action Office (DPMO), the name of which in all honesty

should be changed to the Office of Obfuscation? If no one in that office has knowingly and willfully withheld information from a missing person's file, what has Senator McCain and DPMO personnel have to fear but fear itself? Why should they be above the law when civil society is not?

I recently wrote a report on Cuban War Crimes Against American POW's During the Vietnam War, in which I documented the torture by Cubans of 20 American POW's in Hanoi. Three of these POW's were not released because they were "too severely tortured by Cuban interrogators. The Vietnamese didn't want the world to see what they had done to them." One of the American POWs had been beaten senseless. These three POWs, in spite of the lies told by various members of our government, were alive and in the hands of the North Vietnamese at the time of our release. Only one of them has been unaccounted for. They were alive, and I believe Colonel Digger O'Dell himself said he was on the wall with him the day he departed.

However, Robert Destatt, an analyst at DPMO, said that when he asked about the Cubans, the Vietnamese told him they were not interrogators, but they were merely English-language instructors for PAVN [People's Army of North Vietnam]. Destatt claims, "The Vietnamese's story is plausible and fully consistent with what DPMO knows about the conduct of the Cubans in question." I am submitting a copy of Mr. Destatt's comments.

If this is an example of what DPMO personnel tells families of the POW/MIA's, shame, shame on Mr. Destatt for such an atrocious and incompetent analysis. Shame on you, General Wold, for letting this man to continue to work in DPMO.

This is but one type of the bogus excellent cooperation by the North Vietnamese that has been certified by the President of the United States. Furthermore, it would be an understatement to say that trying to get information on the Cuban program, that as well as information from others, relevant to the POW/MIA from the Department of Defense and other government agencies have been less than satisfactory. DOD's stonewalling is in crass disregard to the President's order on declassifying and releasing of information. I am submitting for the matter of the record a paper prepared by Mr. Roger Hall for this record.

(See statements submitted for the record at the end of this hearing.)

The only honorable thing for Congress to do is pass H.R. 4000 and restore the original language to the Missing Service Personnel Act and make DOD clean up their act. The other thing that I would like to comment on is to extend the applicability of the Missing Persons Act protection to DOD civilian and contractor employees. I would like to urge Congress to change that language to amend it to include all civilian employees engaged in whatever engagements that military are involved in overseas.

We have seen in the past 2 years in Bosnia and the Gulf War, Somalia, and Haiti actions by the military in which civilians were very involved. These are not only DOD contract employees. But these are CIA personnel, State Department personnel, and others.

Even though most military personnel feel that civilians have no place in the war zone, they forget that the most—most U.S. en-

gements nowadays are mostly a team effort, such as in Bosnia there is a strong State Department and CIA presence as well as military presence. There are also employees for Agency for International Development with whom I work who are assisting in rebuilding the country, while other civilians are there to support the military.

In this modern age of high technology, DOD has often called on civilians to assist them in repairing and reprogramming computers, electronic warfare equipment, missiles and airplanes when military personnel cannot fulfill this duty. Furthermore, the military have the intelligence and military capability to identify missing personnel and launch an investigation. Therefore the DOD should have the responsibility for accounting for civilians as well as military personnel in a time of conflict, as I am sure our Founding Fathers intended the military to do.

In Vietnam, the military commander, in response to Congressman Peterson's comment early on accountability, the Vietnam military commander technically was under the American Ambassador. Surely the Military Ambassador was under the orders of the Secretary of Defense, who was a civilian. I assume the same is true in Bosnia today, as in Haiti.

Each of the four headquarters in Vietnam was layered with civilians who were under military personnel, who in turn were under civilians. The provinces were the same way. As an employee of USAID, for a time I was a senior provincial representative heading the CORDS program, Civil Operations and Revolutionary Development Support, and had several military officers reporting to me. In other provinces the senior military person was a military colonel to whom these civilians reported to, like myself. Towards the end of the war, a civilian employed by the Agency for International Development, Mr. John Paul Van, commanded the combined U.S. forces remaining in Vietnam, something unprecedented in military history, I believe. And I can assure you he was not the reason we lost the Vietnam War.

I was captured in January 1968 and was a prisoner of war for over 5 years. I spent 27 months in solitary confinement of which one year was in the black box. During part of that time I served as second in command in the POW camp under Air Force Colonel Ted Guy. At the time of my capture until my release, I can assure you that neither the Department of State nor the Agency for International Development had the capability to either rescue or account for me. It was sheer hell for my family. They never heard from me for 5 years. And even if given the responsibility, neither agency has the capacity to perform these functions. This responsibility should lie with the military.

Sometime after my release I was invited to a ceremony on Capitol Hill honoring POW's by raising the POW flag over the Capitol and setting aside a day in September as POW/MIA Recognition Day. By chance I was received at the site by Senator McCain and Senator Daniel Inouye. After the ceremony I asked Senator McCain if he would support awarding the Presidential POW Medal to civilian government employees who had been POW's. McCain inferred to Senator Inouye that as a civilian, I really didn't qualify as a POW; therefore, I wasn't deserving of the medal. I really didn't—

well, I do agree with McCain that I really didn't deserve to be a POW; nonetheless I surely was one, and in all reality I won't be the last civilian POW.

Therefore, I suggest we go back to the intent of this great Nation's Founding Fathers that the role of the military is to protect civil society, and I would like to recommend to you, Mr. Chairman, as well as to the other Members of Congress that you amend this suggestion in H.R. 4000 to read that DOD has the responsibility of accounting for all civilians associated with future engagements of the military.

Unless accountability is instilled in DOD, the same tragedy will again befall, and that is what happened in Vietnam. Records reveal that the National Security Agency had specific information on many captured and missing Americans and never relayed this information to the parent branch of their service or agency. As a result, when negotiations with Hanoi for the release of POWs took place, the names of these POWs were not submitted as known captured; therefore, they were never released, and I believe some of them are still there.

As responsible people we cannot let this happen again. Therefore, I urge Congress to amend the H.R. 4000 to include U.S. military accounting responsibility for all civilians associated with any military engagement overseas. Furthermore, I urge the Congress to approve H.R. 4000 with the recommended amendment as its moral responsibility to the U.S. military and civilian personnel who are presently or will at some future time serve and sacrifice for our country. Thank you.

Mr. DORNAN. Thank you, Mr. Bengt. Mr. Larry Stark.

If you want the full statement to be put in the record, direct that that be done, and you can summarize as you wish.

STATEMENT OF LARRY STARK, FORMER U.S. NAVY CIVILIAN CONTRACTOR EMPLOYEE, AND VIETNAM-ERA PRISONER OF WAR

Mr. STARK. Thank you, Mr. Chairman, and I would like my full statement be put in the record, and I will summarize the remarks contained in that statement.

I want to thank you very much for the opportunity to appear before you, Mr. Chairman, also Mr. Gilman and the other members of the subcommittee. I am here on behalf of the American civilians who have been, currently are, or may find themselves a prisoner of war or in a prisoner of war status in the future.

Before you leave, Mr. Peterson, I had a comment to make in addition to the other ones that were made. I think it is pertinent, and it is not a negative comment in any way, but it was my understanding as a civilian prisoner of war that we wanted control of the senior military man, and Mike more or less touched on that. So therefore, if they can make the necessary adjustments to have senior civilians come under the control of the senior military man regardless of rank, then I think they can also make adjustments to find a way to cover us should we become a prisoner.

Mr. PETERSON. I agree, Larry, and I asked my staff to investigate how we are doing it, are supposed to do it, from a statutory position and also how international law deals with it, because it is not

just our country, but it is how we deal with prisoners that we take as well.

I think you have got a good point. I think we need to make sure we do take care of that in the future. I appreciate that.

I apologize for having to leave. My schedule is—I spent 3 hours and some minutes with the Chairman this morning, and I wore out my other appointments, so they are standing by. I apologize—

Mr. STARK. I appreciate you for being here and taking that last question.

Mr. DORNAN. By the way, how do you tell the good guys from the bad guys? Some of our diplomats taken into custody in European countries in the beginning of World War II, if they had Jewish surnames, their life was in jeopardy. But the diplomats that we took around the Washington area—counsel generals in New York, Italy, Japan, Germany—they went out to Greenbriar. Is that West Virginia? That is where some of our political parties have retreats or think about raising taxes or supposedly cut taxes. Not a bad place. Tennis courts were used. They got a whole different experience in life than Congressman Packard's father Forrest got.

Please continue, Larry.

Mr. STARK. Before I start summarizing my remarks, I think it is appropriate that—at least I am going to do it—to recognize two people here today. One is Top Holland. There would be no bill, we wouldn't be talking about this issue, if it wasn't for Top Holland, who has been fighting this thing for at least 5 years, and he has gotten up to you folks, and you have done your job at your end. The other person is Pilar San Jose, who helped me prepare this testimony.

Having said that then, I am here today because I have been very disappointed by the changes recently in the Missing Personnel Act. With elitist civilians working directly or indirectly with the U.S. Government, and particularly looking to the U.S. military for coverage, the Missing Persons Act, before it was amended, would have required that civilians who are taken prisoner be accounted for in much the same way that military personnel were accounted for. The recent changes to the Missing Personnel Act gutted the act, in my opinion, and in the process excluded civilians from any kind of coverage.

The purpose of my testimony then today is to stress the importance of restoring the deleted provisions of the defense authorization bill in 1996, which included civilians who are or may become MIA/POW in the process in future conflicts.

A little background, and my statement is not going to be long, so a little background here. I was a 33-year-old bachelor working as a civil service employee, Department of the Navy, in South Vietnam at the time of my capture on February 1, 1968. It is important, because it is a little confusing, but it is important to note that I also was a civilian employee of a contractor, RMK-BRJ, and Congressman Packard's dad works for MK. That was part of the organization that I was working for.

I had been employed by the Navy for just three months, but as I say, I had been there with RMK-BRJ prior to that. It was a construction consortium under contract with the Department of Defense. We built the air bases. We built the runways, we laid the

roads. We constructed the hospitals. We did a lot of things. Without our effort, the effort of the military would have been greatly delayed, and their efforts would have been less satisfactory than they were.

When I was assigned away in December 1967, I was assured by the military of their assistance in the event of an attack. However, when the attack came during the offensive, no assistance came. Therefore, we invited the five military personnel from next door to join forces with us, with the four of us in my house, to resist the NVA offensive. It goes without saying that our resistance was unsuccessful. With two men killed, and the rest of us wounded, and with practically no ammunition left to defend ourselves and the likelihood of rescue practically nil, we surrendered and were taken prisoner February 1, 1968.

After 5 long years my release came on March 5, 1973. Subsequent to my release from captivity, I was disappointed to learn that my parents had not been informed that I was a POW. This was in spite of the fact that the government was provided reports from three military men who escaped and from two female civilians who were released. All my mother received was a letter from the Navy with the statement that there was a nonconfirmed report that Larry Stark was taken prisoner. I ask you, Mr. Chairman, how many firsthand live-sighting reports from fellow prisoners does it take to confirm the fact that someone has been taken prisoner?

I was carried in a missing status for all of those 5 years. My mother didn't know until October 1972. In the same letter the Navy sent, they assured my mother if there was additional information, they would notify her. Needless to say, no additional information was forwarded to my family. As my written report details, my father died during my fifth year of captivity without knowing I was a prisoner of war.

I had dreams in prison. I had dreams of coming home and going to a ballgame, and now I would have the money to do things I hadn't done before. But I would not have that advantage. And had my dad known—and my mom told me this—had my dad known I was a prisoner, he would have made it until I got home, she thought.

If you had known my dad, you would know he trusted the Federal Government. For example, if the government didn't provide any additional information for him, there wasn't any additional information, because they said they would. My dad was not an admiral. My dad was what you might call a civilian grunt. He did the everyday tough job of earning a living for a family. He couldn't imagine that this government of ours would have all of this information and not tell him. Unfortunately, the government betrayed his trust, and in the process betrayed my trust as well.

Perhaps the most compelling reason for restoring the provisions for including civilians in the Missing Personnel Act is demonstrated by a few examples of other civilian personnel. You know we fought alongside the military. At the time of capture there were five military and four civilians. Two military had been killed in the house. One wasn't 4 feet away from me when he was killed. We marched along the same trails.

Mr. DORNAN. How many of the seven survived, Larry?

Mr. STARK. Of that—there were actually a total of nine there, and 10 to begin with, and two died, so we only ended up with eight. And later on on the trail we lost two more. Tom Ragsdale was no more than from here to this chair, 8 feet away, and unfortunately a bomb was dropped from one of our own planes, blew him away. It could have been me as well. Later on on the trail one of the other men died of a heart attack.

So it wasn't a piece of cake, and civilians weren't treated that much differently than military. I wasn't tortured, and I won't claim to be tortured. I wasn't treated like Sam and Pete and some of these other fellows. I am not going to try to make that claim. But I am going to try to make the claim that we weren't treated with kid gloves simply because we were civilians, and there were no Greenbriars in Vietnam.

We were alongside the military, captured with them, interrogated by the same people, marched along the same trails, sometimes tortured by the same interrogators and people, and detained in the same camps with military personnel. We ate the same food and shared the same quarters. We supported the military and cooperated with the military, and on at least one occasion escaped with the military.

How is it, then, that when the going gets tough, the government chooses not to account for civilian prisoners of war in the same way that they would account for the military? If the task of accounting for civilians is left to the State Department or other civilian agencies, it will likely become a hit-or-miss operation and mostly miss. And what would happen to me and other civilians in Vietnam will likely happen and occur in future conflicts. I submit that these agencies are not equipped or trained, nor interested, in handling this responsibility.

For those who would argue that civilians were so well paid they should take their chances, I guess, sort of like mercenaries, I would just say that my base salary when I went to Vietnam was less than \$12,000 a year, and more importantly two other prisoners that worked for the International Voluntary Service made \$50 a month and \$75 a month respectively; hardly mercenaries, hardly getting rich. But salaries and personal economic status cannot be a basis for deciding which prisoners should or should not be accounted for. It is the service of country that distinguished the U.S. citizen or ally from others in captivity.

As I mentioned earlier, civilians are directly or indirectly involved in supporting the military. It just so happened that our employment relationship with the government was less direct than those with the military. Our goals, however, were the same: to win the war for the United States of America.

As a closing note I would like to tell you that a marine gunnery sergeant told me after my release, he said he had entered my house where he had stayed but a week earlier and found it almost totally destroyed as a result of B-40s and mortars, one of which landed right above me and killed a man next to me. We tried to get to you, he said. We tried to get to you as quickly as possible, but we just couldn't make it in time. And when I saw the blood on your shoes, your bedroom, I figured you were dead. Since coming home I have often heard the expression that marines don't leave

fellow marines behind. For this gunnery sergeant, this civilian was included in that commitment. Restoring the deleted provisions of the Missing Personnel Act will commit our government to that end.

I thank you, Mr. Chairman.

[The prepared statement of Mr. Stark follows:]

OUTLINE OF STATEMENT FOR CONGRESSIONAL COMMITTEE

SEPTEMBER 10, 1996

Prepared by Mr. Lawrence J. Stark, ex-POW

A. INTRODUCTION Thank you for your invitation to appear before your Committee on behalf of American civilians who have been, currently are, or may find themselves in a "Prisoner of War" status in the future. In the recent past, I was pleased to learn that civilian employees working directly or indirectly for the U.S. government and, particularly for the U. S. military, would have to be accounted for in the same or similar way that military personnel who become prisoners are accounted for. I was very disappointed then to learn that this provision had been eliminated from the bill. The purpose of my testimony today is to stress the importance of including coverage for civilians in the Missing Persons Act or other legislative initiatives.

B. BACKGROUND: I think it is important to give you a little background about myself and other civilians who were captured in the Vietnam War in order to give you a better appreciation for the type of people that I am asking you to cover by legislation.

Speaking for myself, I was a 33-year old bachelor working for the Department of Labor in Washington, DC when I was invited to go to Vietnam and work for a consortium of contractors (RMK-BRJ) under contract to the Department of Defense. I accepted the invitation and went to Vietnam in April 1966. After a year with RMK-BRJ, I returned to the U.S. and after a couple of months, returned to Vietnam and was hired as a civil service employee of the US Navy. I was hired in Da Nang in September 1967, and assigned to Hue in December of the same year. I was taken prisoner on February 1, 1968 during the Tet offensive. At the time of capture, the

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five military personnel next door and the four men in my house, which served as both my office and sleeping quarters, combined forces and resisted capture for approximately two days. At the end of this time, with two men killed and everyone wounded and practically no ammunition to defend ourselves with, and the enemy zeroing in with mortars, and seemingly no real hope of rescue, we were taken prisoners by the NVA. Even though I was assured that when I left Da Nang to be assigned to Hue that I should not worry because being a civilian, should anything happen, that we would be the first ones to be taken out of there.

Unfortunately, I did not get a clarification as to who would be my escort. I think it is important to point out at this point that I had no great concern that my parents would know of my status--for you see I was fortunate in that there were five Americans who were with me, three of whom successfully escaped and made their way back to friendly lines and two women who were with me for some time and were released. I knew in my own heart that these people would report back to the military that Larry Stark was a prisoner. I was, therefore, extremely disappointed to learn from my Mother (on my release) that she did not know I was a prisoner and that my Dad died four years after my capture, not knowing that I was a prisoner.

Try to put yourself in my place--After my release from Great Lakes hospital where I had spent a month recuperating, I travelled around the Midwest giving talks about my experiences as a prisoner of war. My mother, who would attend some of these talks, told me on more than one occasion that she never knew that I was a prisoner. At first, it didn't register with me, because I knew that all these people who

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were with me had reported that I was a prisoner. When I questioned her more closely, she said, "All we got from the Navy was a letter stating that there was an unconfirmed report that you were taken prisoner." The same letter also stated that if there was additional information, they would notify her. I ask you, what does it take to confirm the fact that a man is a prisoner of war?? How many escapees does one need to have testifying that he or she is a prisoner of war?

Had the provisions of the Missing Persons Act concerning civilians, which have just been deleted from the Act, been in place at the time of my capture, there would have been no opportunity for our government to cover up the fact that I was indeed a prisoner. And if the periodic reviews, initially covered by the Act, were in place at the time of my capture, my status would clearly have been changed from 'Missing in Action' to 'Prisoner of War.' As it was and as it will be unless this Act is amended, there will be no guarantee that a civilian who is taken prisoner will ever be listed as 'POW' and except for the grace of God, find his or her way home. To drive home the point of what my Mother and Father had to deal with, I would just tell you that our Pastor at that time, who himself was a former Navy chaplain and who had two brothers who were Admirals, told my Mother that there was little hope that Larry survived the Tet offensive.

And indeed when I think back to my captors who said, "Lucky for you," (apparently meaning that I was captured and not killed), I did not really appreciate the fact that I was lucky until I returned to Hue in 1974 and learned that at the time of

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my capture, 5,000, mostly civilian Vietnamese, and others like the two German doctors who lived up the street from me, were massacred in Hue during the Tet offensive. The meaning, "lucky for you," now became clear. And even more clear when I revisited Hue and viewed the disinterred and reburied remains of some 3,000 Vietnamese.

C. EXPERIENCES OF CIVILIAN PRISONERS: Just so you know that it was not a piece of cake because we were civilians. I want to add that in addition to the two men who were killed at the time of capture in Hue, Tom Ragsdale, a civilian who was working for US AID and who was standing no more than 10 feet away from me, was blown away by a bomb dropped from one of our own planes while we were waiting to go to North Viet Nam. Later, another man who had been with us, died of an apparent heart attack on the trail. I also want to add the fact that I--as well as other civilians--participated and assisted in the escape of two American military members who made it back to friendly lines. Later, three men who escaped from a prison in the North--one military, the longest held POW, Col. Jim Thompson; along with Lou Myer, the other Navy civilian POW, and Speed Atkins, a retired Army major. Lou was an excellent "soldier" civilian; and Speed Atkins, who was about 55 years old at the time and our senior citizen insisted on going with them. Unfortunately, a couple of days later, they were recaptured. There were other civilians with us, many of whom were interrogated as though we were CIA agents. We also had some non-Americans with us--'Pop' Badua, for example, a Filipino working for Voice of America (VOA), who

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was helpful in so many ways, and who made a cross for Tom Ragsdale's makeshift grave which was helpful later in identifying his remains and having them returned back to the States. Russ Page, a 50-yr old World War II veteran, who was a prisoner of the Russians for a short time during WW II, told the interrogators on one or more occasions that "I don't know why you call me out here--I don't like you, and you don't like me, and I have nothing to tell you--so, why don't you just leave me alone?!"

I want to mention also that, even though they were not Americans, there were two German nurses--Monica and Bernard--who survived, out of the five who were captured, behaved in exemplary manner. Monica, for example, assisted Col. Ben Purcell when he was on a hunger strike by floating half her food down the drainage/ditch so that he would have something to eat unbeknown to the enemy.

I could tell you many more stories about civilians in captivity. But suffice it to say that in many cases, we fought with the military, were captured with the military, were held with the military, ate and slept with the military, assisted the military in their escape attempts or, in some cases, went with them. In fairness, therefore, civilians should be accounted for by the military because in most cases, we were supporting the military. If the provisions of the Missing Persons Act are not amended to include civilians, it is highly unlikely that the State Department will fill this role. Consider for a moment what it would take in my case. A team would have to go up to Hue, review the situation, interview people, pursue leads as much as possible, try

to determine my status and then go back to Saigon--or wherever--and later keep up with me and do periodic reviews. I ask you, realistically do you see this happening?? Isn't it more likely that we would be abandoned to the whims of our captors or the military personnel with whom we were detained??

Another point that I would like to make for those of you who believe--as my favorite senator believes--that we were all making a ton of money and therefore, if we were captured, that was just "tough bezotts!"

For those of you who say that civilians were in Viet Nam for the money, let me say that at the time of my capture, my base salary was less than \$12,000 per year. Some of the men working for volunteer agencies, like Mark Cayer and Gary Daves who worked for the International Voluntary Service (IVS), received \$50 and \$75 per month, respectively. You can hardly accuse them of being in Viet Nam for the money. We were not there to get rich; we weren't there as mercenaries. Many of us, especially those working for the Department of Defense, fully supported the military effort.

In closing, let me just say that it is not practical to leave our accounting to the State Department or Embassy people. It just won't work because they are not equipped to handle a situation especially similar to that which existed in Vietnam where the frontlines sometimes were as close as the front door. Finally, I ask you:

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is it asking too much that civilians be accounted for in the same or similar manner in which the military are accounted for?? If we work with them, if we are imprisoned along with them, if we suffer--and in some cases are tortured--like them, if we eat the same food that they do and share the same POW camps that they did, is it not right and just to account for us as you account for them??

Mr. DORNAN. The reason I asked you, Larry, to testify, and Mike, was I knew you would make a compelling case for that one of the six and a half or seven provisions, and I use a tough word, gutted, gutted out the act. Chairman Gilman feels that way, but I don't know what else to say. I don't know how—I saw Pete Peterson changing his mind a little bit in this discussion this morning with some lawyers involved after 3 hours and 40 minutes.

But if you two wanted to comment at this point before I go to the witnesses, or let me solicit a comment from you. Is there anything in the other five and a half, six provisions, the 48—you commented on the 48 hours to 10 days. It would be a problem there with the military reporting on civilians, but AID should certainly have the obligation to report people missing. You watched two people die, I think Betty Olson died in your arms, didn't she, Mike? She was a Bible translator or a Christian missionary; and Hank Blood also.

Mr. BENGÉ. Nurse.

Mr. DORNAN. Nurse. And as they died, you found out at the end of that year you were back on the same point you started on at the beginning of your journey. So it was a horrible journey north to Hanoi where you might have gotten better food.

One thing that stunned me in rereading your testimony was you came upon an Army officer in a cage, in a jungle camp. Was that inside Cambodia?

Mr. BENGÉ. Yes, it was in northeast—

Mr. DORNAN. Step forward a little bit. Lean forward.

What was that officer's name, Leonard something?

Mr. BENGÉ. That was Lieutenant Steve Leopold.

Mr. DORNAN. Steve Leopold.

Mr. BENGÉ. Right. That was in northeast Cambodia, just below the Laos border.

Mr. DORNAN. He was in pretty good spirits considering you see him in a cage like an animal. Most people think that some of the motion pictures that depicted people in cages was an exaggeration. In the South they really put people in tiger cages and locked them up that way, and he did survive and came home.

Mr. BENGÉ. Right.

Mr. DORNAN. I read some of his heroic stands.

But you would support right now, minus some very delicate fine-tuning, all of the provisions that are law as of today that are about to be stripped out, correct? Do you want to comment on any of the others?

Larry.

Mr. STARK. Yes, I am glad for that opportunity because this so far sounded like a civilian thing. It is not. It is bigger than that. We are talking about—and I worked with Carol Hrdlicka, and I worked with so many other military people. This is about the military; 90 percent of the people we are talking about here are going to be military, 10 percent or less are going to be civilian. If that bill stands as it is now with these changes made, then the military—forget the civilians, they are not going to get anything—but the military aren't going to be properly accounted for.

That is why we are still here 25 years later, because the military haven't been properly accounted for. Information has not been pro-

vided by the government to the families. If it was, if they were working with the families, this whole thing would not be an issue today.

But the most important thing is that these provisions be restored because of the military, because if they are not restored for the military, there is no accounting for the civilians anyway, so forget it.

Mr. DORNAN. Well said.

Carol Hrdlicka, you want to proceed, and if you have a full statement, it will go in the record. You can summarize it any way you wish.

Mrs. HRDLICKA. Since it is you and me, what I will do is just go down through my statement, and I brought some documents, and I want to skip over some of the parts because we have discussed everything pretty well as it is. So, since you are the only one left here, Mr. Chairman, I will go ahead. I didn't notice that. Pardon?

Mr. DORNAN. I have tunnel vision sometimes, and I don't know when my wing men have been peeled off.

Mrs. HRDLICKA. Needless to say I am also very concerned about the McCain amendment, which in essence has made the—

Mr. DORNAN. Take just a breather there 1 second.

Mr. Santoli gave me many videotapes from the Senate hearings. Now, one, I was shocked that all of this was going on without my knowledge. We live in two different worlds here. The families find this out painfully over the years. I had no idea someone I had been to Hanoi with, Senator Bob Smith, a good guy with his heart in this, would be having these hearings without having a messenger come over to me on this side or tell Mr. Gilman and me and say, you ought to come over and see Philip Corso and Steve Keeva.

I had interviewed Steve Keeva and flew him out to be on my television show in 1971 or 1972. He was one of the young enlisted gunners on the B-29 crew where they held back the two radar men because they could positively give testimony that they were over North Korea dropping leaflets, not over China as is maintained to this day by the Government in China. Keeva forgot that point; mentioned one of them, Van Voorhies, and that he saw him in captivity in China and never came back. He also forgot some other things, passage of a quarter century, that he told me, and I made a point not to forget that. I could have added his testimony.

So I am looking at all of this, but the thing that stuck in my mind was what you just pointed out. He says, I can't believe I waited 25 years to testify about Korea, and there is nobody here. The camera pulled back, the C-SPAN camera, and here was Bob Smith, U.S. Senator of New Hampshire, all by himself. Empty. It is as big or bigger, lower ceiling, but a longer hearing room, the main one in the building over there. I thought—he seemed disconsolate is a nice word. Peggy Lee comes to mind: Is this all there is? This is it? I am testifying after 25 years. I want to get this off my chest about Korea and China. Eventually Senator Perry came back in and said he had been listening to part of it in his office.

Here we are in a nonvoting day, 57 days from an election, so a lot of Members are home, but as you family members are coming to learn the ways of the Hill, this does go in the record, we are making a case, and you are giving me armor plating to go on the

floor—and I will just pick a few names. Jim Talent of Missouri. Jim, you should have been at the hearings. Oh, I heard they were great. The Speaker knows they were great. We are building our case.

So what you said about the civilian things is important. What you are going to testify to—I told these lawyers this morning, I told them a little more detail than they wanted to hear—that a brigadier general arrives at your door after a Long Beach paper printed—the Pravda paper, from the Russian paper—and there was David alive at—the poncho shot, where the guy in the poncho is poking him along with a bayonet, obviously David Hrdlicka, and I said—and Carol said to this brigadier general, what do you know about this? Absolutely nothing, ma'am. I got a call from the Pentagon, better get a brigadier general over to Carol Hrdlicka's house. We want to keep her on our side, keep them secret, and don't talk and all of that. And that was your introduction. And now still you and David, Junior, and other family members still getting new documents as years go by.

I will tell you details later about an interesting 3-hour-and-40-minute meeting this morning, and our work is cut out for us, too. I have got to tell Tom, too, and Donna, and go ahead with your statement. I wanted to let you know it is not just me alone, it is my staff and John Chapla and staff on the Democrats' side. We will get the word out.

Mrs. HRDLICKA. I think some of the people that need to hear these things never show up. That is what has been my personal observation over the many years and everything we have had.

Mr. DORNAN. If I had alone at that desk there a live American from Korea who is 45 years older than the day he was shot down or captured on the ground, as I had Lieutenant Cho in my office, who escaped after 43 years, there would be a cluster of cameras over there, and he would be on the cover of Time, Newsweek, and U.S. News. They keep demanding this high standard of we are not going to pay attention unless you give us a smoking gun, that is, a human being who survived the damned existence, and then we will pay attention. Other than that it is little pieces in a mosaic that we keep putting in, and the more little pieces we put in, the clearer the picture comes before us that something awful happened here, and we are still driving toward that goal.

STATEMENT OF CAROL HRDLICKA, WIFE OF PRISONER OF WAR COLONEL DAVID HRDLICKA, USAF

Mrs. HRDLICKA. I am not going to give you the smoking gun, but I hope I give you a few more pellets.

Back to Senator McCain and his gutting of our Missing Service Personnel Act. The thing that bothers me is this legislation had never been changed since 1942, and I would have thought with all the modern technology, they would have needed to update it. And I would really like to know what Senator McCain's rationale was for the changes. And I won't go into all the changes because we pretty well have gone over there, but I would like to have somebody explain to me what his rationale was and why of all people Senator McCain is not interested in protecting our men now or in the future.

And as far as Section 1502 and 48 hours, I would just say in a civilian community, if you go missing, they report you after 24 hours. If Senator McCain had the misfortune to land in the jungle with both of his arms broken, would he have minded sitting there for 10 days waiting for them to come get him?

And I will skip over some of the other ones. I will only address the ones that I think are pertinent, and one that really sticks out is section 1505(b), where you change the review boards from 3 years to where there is new information. And in many cases there has been new information, but it hasn't been relayed to the families. At the present time, the government agencies and their personnel have a license to lie to the families under the guise of men have to be sacrificed for the greater good, and I would like to know for what greater good David Hrdlicka has been sacrificed.

Section 1506 changes the penalization of the government official who knowingly and willfully withholds information on a missing person. Don't future generations deserve better treatment than the families received in the past, and should we be asked to sacrifice our loved ones and never know the truth about their fate? Would any of you be willing to sacrifice your children, brothers, sisters or any members of your family and not know what happened to them? Why shouldn't the people in charge of the government agencies be held accountable?

I have a letter here from a family member whose name is John Felos, and he wrote this letter addressing the problem that in the fall of 1993, the Vietnamese Government turned over to the U.S. Government a copy of a log of aircraft shootdowns during the Vietnam War; and in this log, there is a number one and a column 11 and 12 indicated. Eleven and twelve indicated the pilot had been killed at capture. When Mr. Felos was checking this, all of the agencies within the government told him there was no column 11 or 12. Well, this is the document, and right on this document here is the 11th column titled "Pilots" and indicates if any pilots were killed or captured. Here is what it looks like.

Mr. GILMAN [presiding]. Without objection, the document will be made part of the record. Would you identify the date of that?

Mrs. HRDLICKA. You want the date of the document. It was February 1994, and this document has been given to every agency within the government. And it was the Vietnamese Government turned it over to the American Government in 1993, and it is the copy of the log of the aircraft shootdown, and our government translated it.

Mr. GILMAN. A copy of a log kept by the Vietnamese?

Mrs. HRDLICKA. Right. They turned it over to our government, and he translated it, and when he tried to find out about this, these agencies denied there was this 11th and 12th column. After his investigation, his comment at the bottom of this letter is, this indicates to me that the withholding of information from families is deliberate and is DOD policy for reasons unknown. That just addresses why we should—why we need the penalty for people who withhold information from the families.

Then we also have a letter from the Defense Intelligence Agency, 1982, where the DIA confirms the location of—knowledge of pris-

oners, and I would dare say the no family member was ever notified of this either.

And we will just skip over the—well, no we won't. Section 1507 is you can declare somebody dead without credible evidence; that a body or remains have to be certified by a practitioner of appropriate forensic science if it can't be identified by visual means.

Would you be willing to accept pig bones for your family member? Would you be willing to have your member declared dead with no credible proof? This just does not seem to have any common sense or logic to me. How can you ask family members to accept such a degrading practice for our loved ones? David Hrdlicka was declared dead with no credible proof. Passage of time. Gee, we didn't see David, he must be dead.

And of course the section 1513, we have pretty well gone into the civilian employees, and the way I feel about that is if a civilian employee is in a military operation, then he has a right, the same rights as anyone else in those operations, to be accounted for, and his family needs to be told as well.

And the one thing I would have to say in listening to Congressman Packard is it would have been nice to have a government that was that kind to us as they were to them. Instead, our government has spent the whole time trying to hide things from us.

And I still am at a real—

Mr. DORNAN [presiding]. Carol, elaborate on that just one second because now here he is talking about World War II, a government driving toward an unconditional surrender, and what did you pick up that you felt the government was doing then that they weren't doing when we got into politicized, nondeclared wars where everything is supposed to be too sensitive to discuss with the families of the warriors?

Mrs. HRDLICKA. I think probably what has happened is we had a lot more patriotism back then in World War II, and everybody was behind the war; in Vietnam and Korea—everybody wasn't behind the war. They were political, things we shouldn't have been into. We had no business being there, and they definitely had no business sending our military men into places like Laos where you didn't even have declared war. Then you lose them. How you get them home? The way I look at the whole thing is you keep your nose out of your neighbor's business.

I just think that we came from a time—and that is why I got caught in this, too, because I came from a time when you were patriotic. I would never have believed—if had you told me 31 years ago my government would lie to me, I wouldn't have believed it. I wouldn't have believed it. It has taken me this long to see the documentation to say, yeah, they lied. But I would still like to know what agenda Senator McCain could possibly have to have stripped the Missing Personnel Act of all its protection for the service members who could possibly end up in captivity as he did. Why would Senator McCain want to protect people that have lied to the families?

In June a group of family members tried to hand Senator McCain letters to ask him not to make the changes in the Missing Personnel Act. Senator McCain, after we had tried to hand him the letters, went on the Senate Floor later and stated that the families

and the veterans agree with his amendment, and nothing could be further from the truth. In other words, he lied.

Senator McCain does not speak for the families, nor does he—do we want him to speak for the families. He doesn't care what we want either. Senator McCain won't even meet with us except letters, and Senator McCain does not care about the regular military man. That is shown in his comment, "CINC's don't have time to worry about lieutenants or sergeants." Does that mean lieutenants and sergeants are not important? Maybe the CINC's should be on the front lines.

Why is it that Senator McCain supports anything the Vietnamese communists want; for instance, lifting the trade embargo, normalization, or Most Favored Nation? Yet Senator McCain's voting record shows a lack of support on many of the American veterans issues or abandoned POW's. Why would a former POW hug his former captor? I believe Senator McCain's Achilles' heel is his behavior during captivity.

There is much arguing as to who is to blame in the POW issue. Well, I believe there is enough blame for everyone to share, Democratic and Republican. Let's just look at the record of the presidents over the years. First we have Johnson, who escalated the war. Then we have Nixon, who got on television and lied about the POW's all being home. Then we have Carter, who declared all the men dead with no credible evidence. Then we have Reagan, who meant well, but was surrounded by people who did not want the POW can of worms exposed, so he refused the offer to sell the U.S. Government 57 POW's in 1981.

I have the handwritten notes of Richard Allen, and this is dated February 1981, and it states: Meeting, Roosevelt Room, 15 people. And you see it is just his hand notes, and he has got P, which I suppose it is the President; VP; Casey. And it goes down here and it says, somebody ROH had telegram, Politburo through China, Canada—North Vietnam claim 57 men. Wants \$4B.

So I imagine that is 4 billion.

Mr. DORNAN. Is there a date on that?

Mrs. HRDLICKA. Yeah, it is February 1981.

Mr. DORNAN. No day? Because Reagan was sworn in a few days before on January 20, 1981.

Mrs. HRDLICKA. Then it has another little deal down here. It says: Following week another meeting also in the Roosevelt Room. Casey goes to P, which is probably President, says check with DIA, says we know who and where they are. Baker angry at Casey going directly to P.

Mr. DORNAN. Take a time out right there.

Mrs. HRDLICKA. This is Richard Dower. Here is his deposition.

Mr. DORNAN. How did you come across this?

Mrs. HRDLICKA. National Archives. Like Trowbridge says, I can do my own research.

Mr. DORNAN. You saved a surprise for me, Carol. I didn't know that existed, although I know that Dick Allen, he was a friend, carried some guilt about this period. He was not the National Security Advisor as long as he hoped to be. I remember the press drove him from office. Nancy Reagan asked for his resignation even though she liked him. It was so early in the administration. And we would

have probably gotten a tougher and fairer shake out of him than anybody else because he is—as you said, Reagan, who meant well, was surrounded by people who did not want the can of worms. Bill Casey, who I rather like, said to me and a couple of the Congressmen, using the “F” word for emphasis, what do you want us to inflict President Reagan with, a “blank” instant hostage crisis? An instant hostage crisis. That would be letting that memo out that there were that many men there. Suddenly it is a hostage crisis.

I guess they are going to give us a copy of that stunning memo.

Mrs. HRDLICKA. Then there was Bush who knew the whole truth as a former CIA director and could have asked the Vietnamese to return our men. Finally, we have Clinton who was a draft dodger and a protester that does not like the military, so he has also turned a blind eye to the plight of our men.

I would say we have both sides well represented, Democrat and Republican. We have heard for 23 years how the POW issue is the highest national priority. If that is the case, why haven't the cases where the men were shown to be alive in captivity been solved? In 1991, the Senate select committee admitted men had been left behind in captivity. Allow me to give you my view on DPMO's investigation on my husband's case.

My son and I viewed the classified file DPMO has on my husband in May of this year. This classified file is nothing more than a record of their own feeble attempts at what they call investigating, that DPMO hires underachievers and buries them in paperwork. There is no effort made to investigate leads unless you actually show the DPMO the lead example. There was never any effort made to contact the Russian reporter that interviewed David several times in captivity. Last December 1995, I asked if they had ever made such an effort. The answer was no, at which time DPMO then began their 1996 investigation 30 years late.

The DPMO will now have to rethink their position that David died in 1968. David was seen alive at a press conference in the caves of Laos in 1969. This is the letter. I am going to read you a paragraph that they sent me June 28, 1996:

We have received the initial results of an interview conducted in Israel of Mr. Ivan Laboda. As you know, Mr. Laboda and Ivan Shedrov say they traveled to Laos in 1969. Mr. Laboda has said that he was present during an interview of your husband in the spring of 1969. He also reports that David appeared to be in good health at the time.

So David was declared dead in 1977 with DPMO's 1968 date. They don't have any evidence, that is just their assumption. DPMO is nothing more than a gadabout. DPMO has not even made a request for the cables referring to a rescue attempt that was testified to by General Secord where he states there should be a raft of cables in the CIA. Look in Secord's testimony. He says a raft of cables. I have personal knowledge of that because I was involved in the abortive attempt to rescue those guys back in 1966 or 1967. You would have to go to the CIA to get all those cables, but there is a raft of cables on it. We knew that they existed alive because we had an agent inside.

On the other page, what was going on with respect to the POW's is we were tracking as carefully as we could all the intelligence in-

formation available on POW's. They were tracking POW's; yet families have never been told they were tracking the POW's. During our 3-day viewing of the file, one of the analysts admitted that he had no analytical training.

Mr. DORNAN. Have you spoken to him?

Mrs. HRDLICKA. We sat there, David and I; my son being in the military said, tell me what analytical background you have. The guy says, I don't have any analytical training. This is one of the chief analysts working on my case telling me that I am misreading things.

Mr. DORNAN. Is he the one that went to Israel?

Mrs. HRDLICKA. No. He doesn't leave the office. Is that the way investigations are done, hire people with no experience and let them learn or not learn on the job? Does that sound like the highest national priority?

In 1992, I sent a Freedom of Information to the Defense Intelligence Agency requesting all documents pertaining to rescue attempts for David and specifically requesting anything on a code name of Duck Soup. I received a response on 10 August 1992 from Charles Trowbridge denying any rescue attempts were made for David. In this letter he says that I believe that the first rescue attempt was code named Duck Soup, which I was just asking about the Duck Soup because I thought it had something to do with a rescue attempt. He says in answer to her specific request, inform Mrs. Hrdlicka that we have no record that the U.S. Government has ever mounted a rescue attempt for either Colonel Hrdlicka or Colonel Shelton.

In this—I have a separate page somewhere. Just a minute.

Mr. DORNAN. Take your time.

Mrs. HRDLICKA. It says right here on this document from the Department of State, on to explore feasibility conducting rescue attempt for downed 101 pilot who believed to be held in cave at DH, whatever. That is the Sam Neua cave. That would be a rescue attempt that they were talking about doing for Shelton because Shelton was a 101 pilot. That tells you they did think about doing rescue attempts.

He says on Duck Soup, however, the operation was completely unconnected with POW issue and was in the area of Southeast Asia. This is the Duck Soup document right here. As you can see, there are many agencies that that goes to. And the date of this is June 18, 1965, and it says Duck Soup, Duck Soup, Duck Soup, Duck Soup, Duck Soup operations. The Duck Soup operations are in the Sam Neua area. David Hrdlicka was in the Sam Neua area. Maybe the Duck Soup operations weren't connected to David Hrdlicka but the Duck Soup operations were Air America. Air America wore many hats. They didn't just do one job. They did many jobs. So this is—this does have to do with Southeast Asia. Mr. Trowbridge says here it is unconnected. That is a lie. It is the Sam Neua area and it is Southeast Asia.

Mr. DORNAN. Do you want to submit these documents to be at the end of your statement or to annotate them in the statement? Because your written statement has notations to the documents, I think it would be okay if we put them all in at the end.

Mr. GILMAN. Could I interrupt? Was that mission ever completed? Did they——

Mrs. HRDLICKA. I was getting to that. I was going to read you this excerpt here, too. Our mighty MEO report—June 20, 1965. It is a Department of State and also has a bunch of agencies that it goes to. It says, Our mighty MEO report from one of their outposts in Sam Neua that they have succeeded in recapturing one of the United States pilots captured during the past few weeks. These are referring to Hrdlicka and Shelton. We are sending a chopper to their command post to pick him up. It is not, repeat, not clear whether this is Hrdlicka or Shelton. We assume it is one or the other. We will fly him direct to you and presume other word will come through Air Force channels.

You see now I call this a rescue attempt. Mr. Trowbridge may not call it a rescue attempt. And then I have a document from——

Mr. DORNAN. The result was whether that was Shelton or David, they were recaptured?

Mrs. HRDLICKA. Whoever it was has been recaptured, yes. Then we have a deposition by Admiral Moore and he addresses a rescue operation in 1972 to rescue approximately 60 American POW's held in Laos.

Now I will have to assume someone is lying. Is it Casualty and Moore or could it be Mr. Trowbridge deliberately lying, and if so why?

In the beginning, the Air Force Casualty did not send documents to me. They just kept me informed by telephone and letter. I was informed in 1966 there had been a rescue attempt. But they were not sure whether it was Hrdlicka or Shelton. Whoever it was had been recaptured.

Well, you see now I think that report that I just read you is what they told me. Well now, I know what they told me. I don't have a piece of paper to back it up. You have to take my word for it. That is what they told me in 1966. You have Mr. Trowbridge telling me time and time again there were no rescue attempts. I will have to conclude that if what Mr. Trowbridge says is the truth and there were no rescue attempts, then Air Force Casualty was lying to me from the very beginning.

You must be informed that Mr. Trowbridge made a career out of POW issues. I have his name on my original reports. Mr. Trowbridge tells me I can go to the Library of Congress and find the documents when I ask for documents. I would like to know as an American taxpayer what they have done with the budget that they have had for over 30 years? I should not have to spend my limited resources on investigating David's case. That is what Mr. Trowbridge has been paid to do for years.

Mr. Trowbridge seems to have difficulty telling the truth. During the Senate select committee hearings, Senator Bob Smith wanted to call Trowbridge a liar in public. There is this document. You can see from the handwriting here they say, we need to block this. Senator Smith wants to call Chuck Trowbridge a liar in public. You can candy coat what Mr. Trowbridge has done any way you want——

Mr. DORNAN. Whose note was that?

Mrs. HRDLICKA. October 25, 1991, hearing before the Senate select committee, November 1991.

Mr. DORNAN. That is an internal memo from where?

Mrs. HRDLICKA. Out of the archives.

Mr. DORNAN. Who is it directed to?

Mrs. HRDLICKA. It has handwriting here and some initials and stuff. I don't know.

Mr. DORNAN. It was probably the staff, the staff of the Senate select committee.

Mrs. HRDLICKA. Format as desired by Frances Zwenig, staff director. You can candy coat what Mr. Trowbridge has done any way you want and call it misrepresentation or misinformation. I call it as it is, lies. I do understand that my husband and the other man are expendable in Mr. Trowbridge's standards and that it is just the cost of war in his eyes.

Mr. Trowbridge is under an umbrella that gives him the authority to lie to Congress and me as a family member. With all this in mind, do you think Mr. Trowbridge should be rehired to continue his career off the backs of our men? During the period of time after Colonel Peck resigned from the DIA, Trowbridge filled in until a replacement could be found.

On one occasion David, my son, was visiting me and wanted to know who the U.S. postal worker was that was referenced in a 1990 letter from DIA. This is the letter here, stating Colonel Hrdlicka had tried to escape. We then placed a call to Mr. Trowbridge and put the question to him. During the conversation, Mr. Trowbridge suggested my son come see him in person, at which time he indicated he would give my son the name of the U.S. postal worker. When my son arrived, Trowbridge backtracked. He then made a statement that there may not have been a postal worker.

After repeated attempts to get the original report this letter was taken from, a researcher found a report which I believe the letter was taken from. However, it does not mention a postal worker but says the information came from a Federal agent. If that is the case, why did Mr. Trowbridge misrepresent, lie about the facts?

And in this letter they are making some reference to a Frenchman, that this U.S. postal worker had gotten his information from a Frenchman. The Frenchman that was referred to in the letter, Mr. Trowbridge couldn't remember his name but it may have been Pierre O'Reilly.

At that time Mr. Trowbridge was a deputy chief of POW/MIA in the Defense Intelligence Agency and he isn't sure who the source is. That doesn't give me a great deal of confidence in the intelligence gathering capabilities of the DIA.

This should be a good example of why the families no longer can trust the individuals in these agencies and the need for drastic changes. We need legislation that will give us the power to get at the truth. How is it that in February 1996 we are able to get the Missing Personnel Act passed into law, and by August the law is totally gutted?

There have been many committees on the POW problems. There never has been any follow-up action. We as family members have been promised time and again there will be action. After every committee, they said it in the Senate select committee, that they

would follow through and they would get another investigative entity set up. Nothing has been done. Nothing is ever done. Nothing changes. It just keeps going on and on and on.

I thank you very much for your patience today and I will give you all the documents.

[The prepared statement of Mrs. Hrdlicka follows:]

National Security Committee Military Personnel Subcommittee
Statement of Carol Hrdlicka
September 10, 1996

Mr. Chairman and committee members, thank you for inviting me to give testimony before this committee. I am very concerned about the McCain amendment which in essence made the Missing Service Personnel Act ineffective in the protection of our men who are sent into harms way. This legislation had not been changed since 1942. I would think with all the advanced technology it should have been updated.

I would like to know the rationale behind Senator McCain's changes. Let's just go through the changes and if anyone here can explain how these changes offer **more protection** to the men who are sent into harms way, I would appreciate your input. I am mystified why Senator McCain of all people is **not interested** in protecting our men **now** and in the future.

Section 1502(a) changes the time period to report someone missing from 48 hours to 10 days. In the civilian community you are reported missing after 24 hours. If Senator McCain had the misfortune to have landed in the jungle with his broken arms, would he have minded waiting 10 days to be reported missing? How can this be of benefit to our service members?

Section 1502 (b) has unit commanders reporting directly to the appropriate Service Secretary. Is the Service Secretary going to be in the combat theater or sitting in the Pentagon in Washington D.C.? How will that benefit our service members? Does an investigating detective sit in his office and not go to the scene of the crime?

Section 1505 (b) change review boards from three years until there is new information. In many cases there **has been new information** that has not been relayed to the families. At the present time government agencies and their personnel have a license to lie to the families under the guise of men have to be sacrificed for the "greater good". I would like to know, for what **"greater good"** **David L. Hrdlicka has been sacrificed?**

Section 1506 (c) changes the penalization of any government official who knowingly and willfully withholds information of a missing person. Don't future generations deserve better treatment than the families have received in the past. Should we be asked to sacrifice our loved

ones and never know the truth about their fate? Would any of you be willing to sacrifice your children, brothers, sisters, or any member of your family and never know what happened to them? Why shouldn't the people in charge of government agencies be held accountable?

Section 1507 repeal of the requirement that a person can be declared dead (3) without credible proof (4) that a body or remains have to have certification by a practitioner or appropriate forensic science, if it can't be identified by visual means. Would you be willing to accept pig bones in the place of your family member? Would you be willing to have your family member declared dead with no credible proof? Is there no **common sense or logic** left in Washington? How can you ask us, as family members, to accept such a **degrading practice** for our loved ones?

Section 1513 take away the rights of DOD civilian contract employees to be covered by the Act. Why shouldn't the civilian employees have the right to be accounted for if they become missing during a military operation?

What **possible rationale** could there be for these changes, I would personally like to hear Senator McCain's own explanation. What agenda could Senator McCain possibly have to "strip" the Missing Service Personnel Act of all its protection for service members who could possibly end up in captivity as he did? Why would Senator McCain want to protect men that **have lied to the families**?

A group of family members tried to hand letters to Senator McCain to ask that he **not make** these changes and he refused to accept our letters. Senator McCain stated on the Senate floor that the families and the veterans agreed with his amendment. Nothing could be further from the truth---in other words that is a **LIE**. Senator McCain does not speak for the families nor does he care what we want. Senator McCain won't even meet with the families or accept our letters. Senator McCain does not care about the regular military man that is shown in his comment, "CINCs don't have time to worry about lieutenants or sergeants". Does that mean, lieutenants and sergeants **are not important**? Maybe the CINCs should be on the front lines.

Why is it that Senator McCain **supports** anything the Vietnamese communists want--for instance lifting of the trade embargo, normalization, or most favored nation. Yet, Senator

McCain's voting record shows a lack of support on many of the American veterans issues or our abandoned POWs! Why would a former POW hug his former captor? I believe Senator McCain's "Achilles heal" is his behavior during his captivity.

There is much arguing as to who is to blame in the POW issue---well I believe there is enough blame for everyone to share, **Democrat & Republican**. Let's just look at the record of the presidents over the years: First, we have Johnson who escalated the war, then we have Nixon who got on television and lied about all the POWs being home; then we have Carter who declared all the men dead with no credible evidence; then we have Reagan, who meant well, but was surrounded by people who did not want the POW "can of worms" exposed, so he refused the offer to sell the USG 57 POWs in 1981, then there was Bush who knew the whole truth as a former CIA director and could have asked the Vietnamese to return our men, and, finally we have Clinton who was a draft dodger and protester that does not like the military, so he has also turned a blind eye to the plight of our men. As you can see both sides are well represented, Democrat and Republican.

We have heard for 23 years how the POW issue is the **Highest National Priority**. If that is the case, why haven't the cases where the men were known to be alive in captivity been solved? In 1992 the Senate Select Committee, finally after 19 years, admitted men had been left behind in captivity

Allow me to give you my view on DPMO's investigation on my husband's case. My son and I viewed the "classified file" DPMO has on my husband, David L. Hrdlicka, in May of this year. This "classified file" is nothing more than a record of their own feeble attempts at what they call investigating. The DPMO hires underachievers and buries them in paper work. There is no effort made to investigate leads unless you actually show the DPMO "the lead". Example: there was no effort made to contact the Russian reporter that interviewed David several times in captivity. This last December of 1995, I asked if they had ever made such an effort, the answer was, "no". At which time the DPMO then began their 1996 investigation, some 30 years late. The DPMO will now have to re-think their position that David died in 1968. David was seen alive in 1969 at a press conference in the caves of Laos. (Read DPMO Letter) Of course, there is

no evidence to back up the DPMO 1968 date, just their **assumption**. DPMO is nothing more than a data dump.

The DPMO has not even made a request for the cables referring to a rescue attempt that was testified to by General Secord where he states, "There should be a raft of cables in the CIA" Why hasn't the DPMO requested those cables! During our three day viewing of the file, one of the analysts admitted he had no training in the analytical field. Is that the way investigations are done, hire people that have no experience and let them **learn or not learn** on the job? Does this sound like "HIGHEST NATIONAL PRIORITY"?

In 1992 I sent a Freedom of Information to the Defense Intelligence Agency requesting all documents pertaining to rescue attempts for David and specifically requested anything on the code name of "Duck Soup". I received a response on 10 Aug 92 from Mr Charles Trowbridge denying any rescue attempts were made for David. (Read Trowbridge letter & Duck Soup documents) I have received the deposition of Thomas Moorer from a researcher wherein it addresses a rescue operation in 1972 to rescue approximately 60 American POWs held in Laos. Now, I will have to assume someone is **lying**, is it casualty and Moorer, or could it be Mr Trowbridge is deliberately lying, and if so, **WHY?**

In the beginning the Air Force Casualty did not send any documents to me, they just kept me informed by telephone and letter. I was informed in 1966 there had been an rescue attempt, but were not sure whether they had Hrdlicka or Shelton out. Whoever it was, had been recaptured. Now, I will have to conclude, that if what Mr Trowbridge says is true and there were **no rescue attempts** for David, then the Air Force casualty was **lying** to me from the very beginning. You must be informed that Mr. Charles Trowbridge has made a career out of the POW issue. I have reports as early as 1966 with Mr Trowbridge's signature on the bottom. Mr Trowbridge says **I can go** to the Library of Congress and get the information on David's case----I would like to know, as a **taxpayer**, what they have done with the budget they have had for over 30 years. **I should not have** to spend my limited resources on investigating David's case---that is **what Mr Trowbridge has been paid to do** for years.

Mr. Trowbridge seems to have difficulty telling the truth¹ During the Senate Select Committee Hearings Senator Bob Smith wanted to call Trowbridge a "Liar" in public. You can **candy coat** what Mr. Trowbridge has done any way you want and call it misrepresentation or misinformation. I call it, as they are, lies. I do understand that my husband and the other men are expendable by Mr. Trowbridge's standards and that is **just** the cost of war in his eyes. Mr. Trowbridge is under an umbrella that gives him the authority to lie to congress and me, as a family member. With all this in mind, do you think Mr. Trowbridge should be re-hired to continue his career off the backs of our men?

During the period of time after Col. Peck resigned from the DIA, Trowbridge filled in until a replacement could be found. On one occasion my son, David M., was visiting me and wanted to know who the U.S. Postal Worker was, that was referenced in a 1990 letter from DIA stating Col. David L. Hrdlicka had tried to escape. We then placed a call to Mr. Trowbridge and put the question to him. During the conversation, Mr. Trowbridge suggested my son come to see him in person at which time he indicated he would give my son the name of the postal worker. When my son arrived, Trowbridge back tracked, he then made a statement that there may not have been a postal worker. After repeated attempts to get the original report this letter was taken from, a researcher found a report, **which I believe**, the letter was taken from. However, it **does not mention a postal worker** but says information came from a **federal agent**. If that is the case why did Mr. Trowbridge misrepresent (lie) about the facts. The "Frenchman" referred to in the letter (Mr. Trowbridge couldn't be sure of the name) but it may have been Pierre O'Reilly. At that time, this man, Mr. Trowbridge, was the Deputy Chief of POWMIA in the Defense Intelligence Agency and he isn't sure who a source is¹. That does not give me a great deal of confidence in the intelligence gathering capabilities of the DIA.

This should be a good example why the families can no longer trust the individuals in these agencies and the need for drastic changes. We need legislation that will give us power to get at the truth. How is it, that in February 1996 we were able to get the Missing Personnel Act passed into law and by August we have that law totally "gutted"¹. There have been many committees on the problems, but there is never any follow up action. We, as families have been **promised** time

and again there will be **action!** I would liken the **promises** of Washington to a Barnam & Bailey Circus, just entertainment for the public's benefit and no substance (I mean no disrespect to Barnam & Bailey) Thank you

ATTACHMENT #1

From the desk of **John Fellows**

November 2, 1994

TO WHOM IT MAY CONCERN:

In the Fall of 1993 the Vietnamese Government turned over to the U.S. Government a copy of a log of aircraft shot down during the Vietnam War by their 559th Air Defense Group. Joint Task Force Full Accounting translated this log and wrote a report to various agencies, describing its contents. The Air Force sent a copy of this JTFFA report to the family members whose case correlated with incidents listed in the shootdown log, but blanked out portions of the report, labeling the blanked spaces "routine".

In mid-August of 1994, I received from another family member a JTFFA document which was a related report without the deletions. This document indicated that one of the blanked portions indicated that part 1 of the Vietnamese log, column 11 and 12, indicated if the pilot had been killed or captured, and if any remains or personal affects had been recovered — information of vital interest to the family.

I called the Air Force Casualty Assistance Office at Randolph Air Force Base and indicated that I had been told that one of the blanked portions of the report contained the information indicated above. The individual I talked to — Senior Liaison Officer William Frampton — after retrieving what he said was a copy of the document, told me that there was no column 11 or 12. In Frampton's defense, I must say that the document he was referring to was probably the Air Force edited report, not the original, and that unknown persons may have withheld the same information from him — an injustice to him in his role as family liaison, and a betrayal of the families. The Air Force letter about the report had begun by stating, "According to our policy of providing families with all information ...". Both the JTFFA report and the related document I had obtained, had been routed to Randolph.

To confirm that this was not a misunderstanding, I asked for and was granted a meeting with Assistant Secretary of Defense General James Wold, USA (ret), head of DPMO. I was accompanied by several family members, and he was accompanied by an assistant, Colonel Gearing. In the course of the meeting I asked Wold if the 559th log contained the fate of the pilot. He was unfamiliar with the log, but Colonel Gearing jumped to his assistance saying that the log, in a few rare cases, had a notation in the margin of the log, but that "there was no special column" indicating that information. This indicates to me that the withholding of the information from the families is deliberate and is DOD policy, for reasons unknown.

Sincerely,



John Fellows
4455 Woodgate Point
Eagan MN 55122
(612) 452-4247 O:854-3244

4455 Woodgate Point, Eagan MN 55122
(612) 452-4247 O: 854-3244 Fax 854-1911 Internet: 76340.3166@compuserve.com

ROUTINE

FEB 94

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HQ AFHPC RANDOLPH AFB TX//DPRC0V/

INFO WHITE HOUSE NATIONAL SECURITY COUNCIL WASH DC
SECDEF WASHINGTON DC//USDP:RSA//
RUEHC/SECSTATE WASHINGTON DC//CA/EAP/VLC/CCS/OCS//
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USCINCPAC LO WASHINGTON DC
DIA WASHINGTON DC
CIA WASHINGTON DC//DEA/SEA/IB/DDO/EA/ICOG//
RUEHBT/USDAO BANGKOK TH//PW-MIA//
CDRUSACILHI HICKAM AFB HI//TAPC-PED-H//

UNCLAS 77NO346077

SUBJ:

SUBJ/ANALYSIS OF VIETNAMESE GROUP 559 DOCUMENTATION TITLED "DOWNED AIRCRAFT - RECORD OF ENEMY AIRCRAFT SHOT DOWN FROM 1965 TO 1975."//

RMKS/1. ON 1 SEPTEMBER 1993, THE VIETNAMESE PROVIDED JTF-FA RESEARCHERS IN HANOI WITH A DOCUMENT TITLED "DOWNED AIRCRAFT - RECORD OF ENEMY AIRCRAFT SHOT DOWN FROM 1965 TO 1975." THE DOCUMENT WAS COMPILED BY THE PAVN GROUP 559, WHICH WAS RESPONSIBLE FOR LOGISTICAL AND COMMUNICATIONS SUPPORT FOR THE HO CHI MINH TRAIL. THIS 58-PAGE AIR DEFENSE RECORD IS A LISTING OF 2466 AIRCRAFT SHOOTDOWNS REPORTED BY AIR DEFENSE UNITS OPERATING ALONG

[illegible]

2. THE DOCUMENT IS HANDWRITTEN IN TABULAR FORMAT, WITH ANYWHERE FROM 9 TO 13 COLUMNS PER PAGE. THE MOST SIGNIFICANT COLUMN HEADINGS INCLUDE THE INCIDENT DATE, VIETNAMESE UNIT CREDITED WITH THE SHOOTDOWN, THE TYPE OF AIRCRAFT SHOT DOWN, THE VIETNAMESE UNIT'S LOCATION, THE AIRCRAFT CRASH LOCATION, AND CRASH EVIDENCE FOUND. THE OTHER COLUMN HEADINGS PROVIDE OTHER, LESS SIGNIFICANT STATISTICAL DATA. ALL OF THE COLUMN HEADINGS ARE DESCRIBED IN DETAIL BELOW.

4. JTF-FA AND DPMO ANALYSTS HAVE IDENTIFIED LINE ENTRIES POSSIBLY CORRELATING WITH THE FOLLOWING UNRESOLVED CASES: 0252, 0256, 0275, 0276, 0297, 0305, 0306, 0321, 0339, 0343, 0359, 0370, 0376, 0496, 0536, 0537, 0553, 0571, 0572, 0600, 0635, 0703, 0784, 0833, 0929, 0947, 0955, 1053, 1084, 1086, 1099, 1101, 1132, 1133, 1134, 1135, 1136, 1146, 1151, 1153, 1167, 1196, 1203, 1205, 1232, 1293, 1341, 1344, 1345, 1346, 1347, 1361, 1363, 1366, 1368, 1369, 1374, 1383, 1384, 1409, 1437, 1418, 1421, 1427, 1430, 1435, 1436, 1437, 1467, 1468, 1517, 1519, 1520, 1521, 1530, 1535, 1543, 1544, 1546, 1549, 1561, 1570, 1573, 1576, 1587, 1598, 1600, 1601, 1643, 1644, 1655, 1657, 1664, 1663, 1668, 1698, 1701, 1711, 1724, 1726, 1739, 1743, 1745, 1800, 1807, 1824, 1844, 1947, 1973, 1982, 2000; AND THE FOLLOWING RESOLVED CASES: 0240, 0558, 1111, 1127, 1198, 1333, 1393, 1526, 1734, 1790, 1801, 1962. WHILE IT IS POSSIBLE OTHER DOCUMENT LINE ENTRIES ALSO REFER TO ACTUAL U.S. AIRCRAFT LOSSES,

UU
U U N C L A S S I F I E D U
UU

5. THE DOCUMENT CONSISTS OF TWO MAIN PARTS. THE FIRST PART CONTAINS PAGES 2 THROUGH 10 (PAGE 1 IS BLANK). THESE PAGES APPEAR

A. THE FIRST COLUMN IS TITLED "GROUP/TROOP STATION" AND INDICATES THE GROUP AND/OR TROOP STATION (ABBREVIATED "BT") REPORTING THE SHOOTDOWN.

B. THE SECOND COLUMN IS TITLED "UNIT" AND INDICATES THE VIETNAMESE MILITARY UNIT REPORTING THE SHOOT DOWN. THE VIETNAMESE MILITARY UNITS ARE LISTED USING THE FOLLOWING ABBREVIATIONS: C=COMPANY; D=BATTALION; E=REGIMENT; F=DIVISION (FOR EXAMPLE, C3 B4=COMPANY 3 BATTALION 4).

C. THE THIRD COLUMN INDICATES THE INCIDENT DATE AND IN SOME CASES, THE TIME OF DAY.

D. THE FOURTH COLUMN IS TITLED "GUNS/ROUNDS" AND INDICATES THE NUMBER OF GUNS USED AND ROUNDS FIRED (LISTED GUNS/ROUNDS)

E. THE FIFTH COLUMN IS TITLED "TYPE OF ARTILLERY USED IN THE SHOOT-DOWN" AND CONTAINS SUBHEADINGS SUCH AS: 37MM, 14.5MM, 12.7MM AA, 12.7MM, AND INFANTRY WEAPON. THIS COLUMN LISTS THE NUMBER AND TYPE OF AIRCRAFT REPORTEDLY SHOT-DOWN BY EACH TYPE OF AIR DEFENSE WEAPON. DATA ENTRIES FOR THIS COLUMN WILL APPEAR AS FOLLOWS: AIR DEFENSE WEAPON-AIRCRAFT TYPE (FOR EXAMPLE, 37MM - F-4D).

F. THE SIXTH COLUMN IS TITLED "CRASH SITUATION" AND INDICATES THE TYPE OF AIRCRAFT MISSION. THIS COLUMN HAS FOUR SUBHEADINGS: RECONNAISSANCE, CONVOY SECURITY, ROAD SECURITY, ATTACKING AAA UNIT.

G. THE SEVENTH COLUMN IS TITLED "STORAGE ((NUMBER)) 71-72 DRY SEASON" AND INDICATES A SEQUENTIAL NUMBER ASSIGNED TO THE AIRCRAFT SHOOTDOWN.

H. THE EIGHTH COLUMN IS TITLED "STORAGE ((NUMBER)) GROUP ((559))" AND INDICATES A SEQUENTIAL NUMBER ASSIGNED TO THE AIRCRAFT SHOOTDOWN BEGINNING IN 1965.

I. THE NINTH COLUMN IS TITLED "((AIR DEFENSE)) UNIT'S FIRING POSITION."

J. THE TENTH COLUMN IS TITLED "((AIRCRAFT)) CRASH LOCATION."
K. THE ELEVENTH COLUMN IS TITLED "PILOTS" AND INDICATES IF

ANY PILOTS WERE KILLED OR CAPTURED.

L. THE TWELFTH COLUMN IS TITLED "EVIDENCE" AND INDICATES IF ANY REMAINS OR MATERIAL EVIDENCE WERE FOUND.

U UNCLASSIFIED U

Section 1506

DIA CONFIRMS KNOWLEDGE OF LOCATION OF PRISONERS: I was somewhat shocked to receive a copy of Ann Griffiths' reply to a request release live sighting reports received by DIA after 1 August, 1979. The shock is not from the denial of DIA, but from the content of the letter. It was forwarded to the Board members and Regional Coordinators after the League newsletter was printed. It is not marked confidential and I feel it is of great importance to you; therefore, I submit it to you in its entirety. The underlining is mine.



DEFENSE INTELLIGENCE AGENCY

WASHINGTON, D.C. 20301

APR 14 1982

8 APR 1982

60
4/16/82

U-1,113/RTS-1B

Ms. Ann Mills Griffiths
Executive Director
National League of Families of American
Prisoners and Missing in Southeast Asia
1608 K Street, N.W.
Washington, DC 20006

Dear Ms. Griffiths:

This is in response to your letter of 22 March 1982, in which you appeal DIA's decision not to release live sighting reports of U.S. personnel in Southeast Asia received after 1 August 1979.

It is the policy of this Agency that all live sighting reports of U.S. personnel in Southeast Asia received after 1 August 1979 are properly classified in their entirety and are exempt from release under provisions of 5 U.S.C. 552 (b) (1), Freedom of Information Act.

Release of the information in the form you requested would enable the Vietnamese and Lao Governments to equate this released information to that which may exist. Obviously, these governments know the location of any American prisoners they might hold. By comparing this information to the released documents, even though they may be sanitized, would confirm to them the fact that we know the location of these prisoners and show the extent and capability of our collection efforts. Thus release of the information in the form you requested would be counterproductive to our intelligence efforts in this vital area. Your appeal for release of these documents is therefore denied.

Sincerely,

E. A. BURKHALTER, JR.
Rear Admiral, USN
Acting Director

Shchedrov Interview
1969



DEFENSE PRISONER OF WAR/MISSING IN ACTION OFFICE
2400 DEFENSE PENTAGON
WASHINGTON, DC 20301-2400



28 JUN 1992

In reply refer to:
I-96/21902

Mrs. Carol Hrdlicka
770 North Mayfield Road
Conway Springs, KS 67031-8018

Dear Mrs. Hrdlicka:

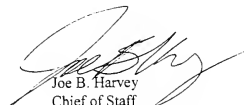
I wanted to confirm some important information which our Air Force Casualty Liaison and Family Support Officer, Major David Moore, relayed to you today by telephone.

We have just received the initial results of an interview, conducted in Israel, of Mr. Ivan Loboda. As you know, Mr. Loboda and Ivan Shchedrov say they traveled to Laos in 1969. Mr. Loboda has said that he was present during an interview of your husband, David Hrdlicka, in the spring of 1969. He also reports that David appeared to be in good health at the time.

Obviously this is a significant report and we are taking numerous steps to follow-up on this information. We will provide you with details about our efforts as soon as we can. Although we do not normally release information about an ongoing investigation until it is complete, I wanted to give you a "heads up" that we had received this information. Additionally, Mr. Loboda advised us he has received your letter and is planning to send you a response very shortly.

I assure you we will keep you apprised of our further efforts. We will relay any and all information we learn about your husband as soon as possible.

Sincerely,


Joe B. Harvey
Chief of Staff
Defense POW/MIA Office

cc:
Air Force casualty



Tracking POWs and Rescue Attempts

1 TESTIMONY OF MAJOR GENERAL RICHARD **SECORD**, LAOS CHIEF OF
2 AIR, CENTRAL INTELLIGENCE AGENCY, 1966-1968; LAOS DESK
3 OFFICER, DEFENSE DEPARTMENT, 1972-1975

4 General Secord: Yes, sir. Well first let me just say
5 for the record that I had a lot of years of experience with
6 Laotian matters, as I think most of the committee knows. I
7 served in Central Intelligence Agency in the field in Laos for
8 1966, '67, and '68. And I was back there again, briefly, in
9 '69. And then I was the Laos desk officer in the Office of
10 the Secretary of Defense, International Security Affairs, for
11 a while in '72. And then by the time you're talking about
12 here, I guess I was the head of the Southeast Asia Branch,
13 having been promoted to Colonel.

14 So I served as a middle level officer during the time
15 that you are focusing on here. And I wish I could take credit
16 for that memorandum, because I think it's a good one, but it
17 only represented -- it was the input of a number of officers
18 who were working on this matter. And a memorandum of this
19 nature to the Secretary of Defense himself would have had to
20 have been coordinated, as a minimum, with the Chairman of the
21 Joint Chiefs, and probably all the Chiefs. Roger Shields
22 undoubtedly chopped on this message, or coordinated I should
23 say. And probably a number of other DIA and others.

24 So I was an action officer and it was my job -- I'm sure
25 I was told by probably Assistant Secretary Eagleburger, after

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1 a SECDEF staff meeting would be my guess. When this was first
2 showed to me by your staff I didn't remember it. You know,
3 there was a blizzard of memoranda.

4 And then when I read it I did remember it, but it was
5 unusual for us in my section to draft POW-type correspondence,
6 because we had an office for POW affairs. I believe that my
7 office was assigned the primary drafting responsibility in
8 this case because this memorandum was kind of operational in
9 nature rather than just an accounting kind of report.

10 Because, after all, it recommended a diplomatic track and
11 a military track. Which we knew, of course -- we could read
12 the papers too, those of us who drafted it -- that the force
13 option would be one that would be hard for the decisionmakers
14 to take given the environment that existed in the country at
15 that time. Nonetheless, we thought it was feasible. So I
16 guess I part company with some who have testified who said
17 that they did not think that the force option was even
18 remotely available. We obviously felt it was.

19 But what was going on with respect to the POW's is we
20 were tracking as carefully as we could all the intelligence
21 information available on POW's, especially after it became
22 clear that there was going to be a Paris Accord. Because we
23 knew this would -- knowing the Vietnamese as we knew them, we
24 knew this was going to be a really tough -- a tough matter.

25 We also knew that the notion that there was a Pathet Lao,

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1 as Ambassador Godley said -- you know they existed but they
2 didn't have any power. The North Vietnamese army had them
3 completely in their control.

4 Vice Chairman Smith: Can I just interrupt.

5 General Secord: Yes.

6 Vice Chairman Smith: I do not want to interrupt your
7 story at all, I just want to ask you a point right there. So
8 based on your tracking, then, there were confirmed U.S. POW's
9 in Laos during the war.

10 General Secord: Indeed. You've mentioned some of their
11 names earlier this morning.

12 Vice Chairman Smith: Do you have any idea how many?

13 General Secord: No, sir, I can't remember. But there
14 were a number of names that we knew with -- what do you know
15 for sure. I mean with reasonable certitude we knew.

16 For instance, the famous case of Hrdlicka and two others.
17 I had personal knowledge of that because I was involved in an
18 abortive attempt to rescue those guys back in late '66 or '67,
19 I think it was. You would have to go to CIA to get all those
20 cables, but there's a raft of cables on that. We knew that
21 they existed alive because we had an agent inside. We knew
22 their names, we knew where they were.

23 Vice Chairman Smith: And I just want -- again for the
24 record, and again I apologize for interrupting your flow
25 there. When you say POW's in Laos, a number, you are

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DATE 11-2-80

By NARA. Date 2-11-90

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RE CINCPAC 310700Z

BOUVANNA HAS AUTHORIZED US EFFORT INTERCEPT AND DESTROY
DRV TRANSPORT AIRCRAFT FLYING MISSIONS IN SAM NEUA REPEAT
SAM NEUA AREA. MOST OF THESE MISSIONS HAVE BEEN OBSERVED IN VICINITY
HUA MUONG AND CAN BE SEEN BY FRIENDLY GROUND OBSERVERS (INCLUDING
AMERICAN) FROM SITE 36 (UH 4113) AND SITE 27 (UH 5312).

IT MUST BE EMPHASIZED THAT RULES OF ENGAGEMENT APPLY AND, THEREFORE,
THAT AIRCRAFT MUST BE INVOLVED IN SUPPLY MISSION WHEN TAKEN UNDER ATTACK.

Duck Soup

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Action

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Info

NNNNVV MJA 106SP 931JFA439

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RUMBAH/COMUSMACV

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T O T 310000Z JUNE 18.

JOINT EMBASSY/AIRN MESSAGE.

DUCK SOUP.

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By guy NARA, Date 6-2-92

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INFO RUMTBK/AMEMBASSY BANGKOK TWO

RUMJIR/AMEMBASSY SAIGON TWO

RUMSALA/SECOND AIR DIVISION

RUHKA/CINCPAC THREE

RUMSMA/COMUSMACV

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~~TOP SECRET~~ JULY 01

LIMDIS

REDEPTTEL 1121.

REGRET WASHINGTON UNWILLING RISK USE AIR AMERICA PILOTS IN T-28
FOR DUCK SOUP OPERATIONS. ALTERNATE PROPOSAL FOR USE LAO OR THAI
PILOTS INFEASIBLE. NONE REPEAT NONE HAS ADEQUATE TECHNICAL
PROFICIENCY TO LAND AND TAKE OFF FROM SITE 96 IN T-28 TYPE AIRC
MOREOVER, BECAUSE OF COMMUNICATIONS/LANGUAGE AND OTHER PROBLEMS
INTERCEPT ATTEMPTS BY THAI/LAO PILOTS WOULD POSE UNACCEPTABLE
RISKS TO FRIENDLY AIRCRAFT IN GENERAL VICINITY.

GP-3 SULLIVAN

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TO RUHKA/CINCPAC 12
INFO RUEHCR/SECSTATE WASHDC 18
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NY 91-378By , NARA, Date 6-2-92

REUR 032217Z.

(1) AIR ATTACHE HAS DISCUSSED ~~BUOK~~ SOUP WITH COLONEL MURPHY
AT UDORN AND THEY BELIEVE THEY MAY HAVE ALTERNATE PROPOSAL WHICH
COULD ACCOMPLISH DESIRED OBJECTIVE.

(2) THIS PROPOSAL WOULD UTILIZE F4C AIRCRAFT BASED OUT OF
UDORN IN MANNER WHICH WE ORIGINALLY ENVISAGED FOR T-28'S, I.E.

(A) F4C'S WOULD GO ON GROUND ALERT DAILY AT 1700 HOURS
LOCAL. THIS WOULD PERMIT US TO COMPLETE OUR DAILY AIR-SUPPLY
MISSIONS IN NORTHEAST LAOS BEFORE WE HAVE TO CLEAR THE
CORRIDOR.

(B) IN ABSENCE SCRAMBLE CALL FROM F4C UNIT AT SITE 36, F4C'S
WOULD LAUNCH ABOUT DUSK FOR AIR ALERT STATION IN GENERAL
VICINITY SITE 36.

(C) IF ENEMY AIRCRAFT SHOW UP IN VICINITY, F4C COULD THEN
CALL IN F4C'S FOR INTERCEPT ON ASSUMPTION THAT ENOUGH LIGHT
WILL REMAIN TO PERMIT POSITIVE IDENTIFICATION VISUALLY BEFORE
MAKING FIRING PASS.

(3) IT IS OUR UNDERSTANDING THAT SEVERAL F4C AIRCRAFT HAVE
BEEN MODIFIED TO PERMIT THEM ACCOMPLISH SUCH A MISSION.
WE ALSO ASSUME THAT A-1-H AIRCRAFT MIGHT BE SUITABLE FOR THIS
ROLE.

AMB SULLIVAN CONCURRED IN FOREGOING PRIOR HIS DEPARTURE.

GP-3. SWANK

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RUENCR/AMEMBASSY BANGKOK IMMEDIATE 1507

RUHLHQ/CINCPAC IMMEDIATE 1569

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S-2-2-7 JUNE 21

18509

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E.O. 12958, Sec. 3.4

NY 91-278

By 440 NARA Date 7-28-92

L I N D I S

OUR MIGHTY MEO REPORT FROM ONE OF THEIR OUTPOSTS IN SAN NHA
THAT THEY HAVE SUCCEEDED IN RECAPTURING ONE OF U.S. PILOTS CAPT
DURING PAST FEW WEEKS BY PATHET LAO AND HAVE WALKED HIM OUT
TO FRIENDLY TERRITORY. WE ARE SENDING A CHOPPER TO THEIR COMMAND
POST TO PICK HIM UP.

IT IS NOT REPEAT NOT YET CLEAR WHETHER THIS IS HADLONA OR SMELT
BUT WE ASSUME IT IS ONE OF THE TWO. WE WILL FLY HIM DIRECT TO
UDORN AND PRESUME OTHER WORDS WILL COME THROUGH AIR FORCE CHANNEL

PAGE TWO RUNJFS 150A SECRET

I WOULD LIKE TO STRESS OVERWHELMING IMPORTANCE THAT THIS RESCUE
NOT REPEAT NOT BE GIVEN PUBLICITY. I HAVE ALREADY PASSED THIS
WORD TO UDORN AND TRUST IT CAN BE PUNCTUATED BY INSTRUCTIONS TO
ALL ECHELONS, PARTICULARLY PENTAGON PRESS SERVICES. SAME INJUNCT
SHOULD BE PASSED TO NEXT OF KIN.

THIS OFFICER IS ONLY ONE OF THREE FOR WHICH WE CURRENTLY HAVE
MEO RESCUE OPERATIONS IN PROGRESS. THOSE OPERATIONS, AS WELL AS
LIVES OF U.S. OFFICERS AND OUR MEO AND LAO FRIENDS, COULD BE
COMPROMISED AND JEOPARDIZED BY PUBLIC HULLABALOO ABOUT THIS RESCUE

WHEN WE HAVE MORE FACTS IN HAND, WE WILL BE IN TOUCH RE BEST
METHOD HANDLING THIS MATTER WITH ICRC AND OTHER ENTITIES WHICH
NEED TO KNOW ABOUT PILOT'S RECOVERY. PLEASE ADVISE ACTION
TAKEN.

GP-3 SULLIVAN

NOTE: ADVANCE COPY TO SS/O, 6/20/65, 11:08 p.m.

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CIA, 6/20/65, 11:35 p.m.

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Trowbridge Letter and Rescue Attempt



ATTACHMENT
#3

BRING our "LIVE"
POW's Home from
Southeast Asia!

July 27, 1992

Gentlemen:

This is a request under the Freedom of Information and Privacy Act. I am requesting all documents that have recently been declassified concerning MIA/POW's in Laos. I am specifically looking for all the documents pertaining to rescue attempts made to gain the freedom of Col. David L. Hrdlicka USAF and Col. Charles Shelton USAF. I believe the first rescue attempt may be code named "Duck Soup". I believe there were several attempts and request documents on all such missions.



As you know, the amended Act permits you to reduce or waive fees. I need these materials to protect the constitutional rights of my husband and the Department of Defense has already decided that it is appropriate to waive all charges for materials and information furnished at the request of members of the families of POW's and MIA's. Therefore, I request that you waive fees and charges with respect to this FOIA request. In the event that you decide not to waive such fees and charges, please let me know, as quickly as you can, how much you want me to pay for the requested items.

If you determine that some portions of the requested items are exempt from disclosure under the amended Act, please furnish me with the remainder and identify the exemptions which you maintain justify the non-disclosures. I, of course, reserve the right to appeal any such decisions.

If you have any questions regarding this request, please contact me. I will expect to receive a reply within ten (10) days.

Thank you for your attention,

Carol Hrdlicka
Rt. 1, Box 24
Conway Springs, Ka. 67031
316-450-2439

RECEIVED POW-MIA
THE PROUD THE BRAVE THE ABANDONED

Laos Rescue 1972

Stenographic Transcript of
HEARINGS
Before the

SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS

ROGER HALL
5719 First Ave., Apt. 827
Bowie, Spotsylvania MD 20910
401-565-3361

UNITED STATES SENATE

CONTINUED DEPOSITION OF
ADMIRAL (Ret.) THOMAS HINMAN MOORER

Thursday, April 30, 1992

Pages 172 through 316

Exhibit Numbers 5 through 10

Washington, D.C.

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241
352 253
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359, 260
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1 Q. You've told us about or you mentioned several
 2 times the Sontay raid in 1970. Are you familiar with an
 3 operation that was planned, a rescue operation that was
 4 planned to occur in November of 1972 to rescue a group of
 5 approximately 60 American POW's or some other number of
 6 ~~prisoners of war in Laos?~~

7 A. Well, I think it was discussed, but we didn't
 8 plan another operation that would approach the Sontay
 9 operation in complexity.

10 Q. What was discussed regarding any rescue
 11 operations in Laos?

12 A. Well, I don't remember too much about it, but
 13 there was some doubt, I think, as to whether the Laotians
 14 held these people, and, in fact, people were suggesting
 15 that we go over there and see.

16 Q. Do you remember the time period of those
 17 discussions?

18 A. Well, let me tell you, it was before 1972, I
 19 think.

20 Q. 1971?

21 A. Something like that. I don't know.

22 Q. At what level were these discussions held? Did
 23 the discussions go outside the military?

24 A. Not to my knowledge.

25 Q. So, in other words, they ended at your level?

ROGER HALL
 8715 First Ave., Apt. 827
 40714 Spring, MD 20910
 201-585-3361

1 A. I think so.

2 Q. Did any of these discussions regarding rescue
3 or reconnaissance missions into Laos ever go beyond the
4 discussion stage? In other words, were actual plans ever
5 drawn up, training conducted?

6 A. Well, at some levels it's possible. But I
7 don't recall, as I said, a plan reaching the point where,
8 you know, it became a clear objective of whether the
9 President was going to be briefed and it was going to be
10 rehearsed over and over again, which we did with the
11 Sontay prison raid. There may have been at some levels,
12 maybe MACV.

13 I know, I think it if were a large scale
14 effort, it would have gotten my attention because of the
15 part I played in the Sontay prison raid.

16 Q. Did you ultimately make the decision that it
17 was not wise to go in with any kind of rescue attempt into
18 Laos, or was that position not really presented to you?

19 A. I don't think that reached the top levels in
20 the decision process. But in 1972, you recall, things
21 really began to perk up. We had done Lamson 719 right
22 before; then we had the mining of Haiphong Harbor; and the
23 Linebacker II. So I don't recall any planning on going to
24 Laos. That doesn't mean it didn't happen. I just don't
25 remember.

UNITED STATES GOVERNMENT

memorandum

21 SEP 1992

DATE:

REPLY TO
ATTN OF: PW

1099/PW

SUBJECT: Response to FOIA Request, Case 0670-92

TO: DSP-1 (FOIA)

Ref: DSP-1 memo 2,450), 10 Aug 92 (enclosure 1).

1. Reference requested that DIA (PW) conduct a file search in response to a request from Mrs. Carol Hrdlicka, wife of Colonel David Hrdlicka, USAF, missing in Laos. Mrs. Hrdlicka is requesting "all documents that have recently been declassified concerning MIA/POW's in Laos." Specifically, she is requesting "all the documents pertaining to rescue attempts made to gain the freedom of Col David L. Hrdlicka USAF and Col Charles Shelton USAF." Mrs. Hrdlicka believes the first rescue attempt was code named "Duck Soup."

2. Regarding her broad general request, please inform Mrs. Hrdlicka that all declassified documents pertaining to missing in action from the war in Southeast Asia have been placed in the public domain and will be available through the Library of Congress. In answer to her specific request, please inform Mrs. Hrdlicka that we have no records that the U.S. Government has ever mounted a rescue attempt for either Colonel Hrdlicka or Colonel Shelton. Based upon numerous inquiries due to articles in the public media, DIA undertook a records search, with the help of other government offices, to determine whether any operation by the name of "Duck Soup" ever actually occurred. The results of our inquiries revealed that, in 1949, a limited U.S. Government operation code named "Duck Soup" did occur. The nature of the operation remains classified. However, the operation was completely unconnected with the POW/MIA issue and was completely unconnected with the area of Southeast Asia.

3. A DD Form 2086 is provided as enclosure 2.

4. POC for this action is John Horn, (703) 908-2761.

- 2 Enclosures
1. DSP-1 memo 2,450),
10 Aug 92
2. DD Form 2086

Charles F. Trowbridge, Jr.
CHARLES F. TROWBRIDGE, JR.
Deputy Chief
Special Office for Prisoners
of War and Missing in Action

INCOMING TELEGRAM Department of State

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TO RUENCR/SECSTATE WASHDC FLASH 2051

INFO RUNJIR/AMEMBASSY SAIGON IMMEDIATE 1016

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RUMHQA/CINCPAC IMMEDIATE 1569

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S S C D T JUNE 21

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E.O. 13526, Sec. 3.4

NOV 91-278

By 40. NARA Date 7-28-92

18509

H45 JAN 20 PM 11 03

L I N D I S

OUR MIGHTY MEO REPORT FROM ONE OF THEIR OUTPOSTS IN SAM NHEA THAT THEY HAVE SUCCEEDED IN RECAPTURING ONE OF U.S. PILOTS CAPTURED DURING PAST FEW WEEKS BY PATHET LAO AND HAVE WALKED HIM OUT TO FRIENDLY TERRITORY. WE ARE SENDING A CHOPPER TO THEIR COMMAND POST TO PICK HIM UP.

IT IS NOT REPEAT NOT YET CLEAR WHETHER THIS IS WADLCKA OR SWELL BUT WE ASSUME IT IS ONE OR THE OTHER. WE WILL FLY HIM DIRECT TO UDORN AND PRESUME OTHER WORD WILL COME THROUGH AIR FORCE CHANNEL

PAGE TWO RUNJFS 150A ~~SECRET~~

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WHEN WE HAVE MORE FACTS IN HAND, WE WILL BE IN TOUCH RE BEST METHOD HANDLING THIS MATTER WITH ICRC AND OTHER ENTITIES WHICH NEED TO KNOW ABOUT PILOT'S RECOVERY. PLEASE ADVISE ACTION TAKEN.

GP-3 SULLIVAN

NOTE: ADVANCE COPY TO SS/O, 6/20/65, 11:08 p.m.

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SENATE SELECT COMMITTEE
SUMMER 1992

149

1 TESTIMONY OF MAJOR GENERAL RICHARD SECORD, LAOS CHIEF OF
2 AIR, CENTRAL INTELLIGENCE AGENCY, 1966-1968; LAOS DESK
3 OFFICER, DEFENSE DEPARTMENT, 1972-1975

4 General Secord: Yes, sir. Well first let me just say
5 for the record that I had a lot of years of experience with
6 Laotian matters, as I think most of the committee knows. I
7 served in Central Intelligence Agency in the field in Laos for
8 1966, '67, and '68. And I was back there again, briefly, in
9 '69. And then I was the Laos desk officer in the Office of
10 the Secretary of Defense, International Security Affairs, for
11 a while in '72. And then by the time you're talking about
12 here, I guess I was the head of the Southeast Asia Branch,
13 having been promoted to Colonel.

14 So I served as a middle level officer during the time
15 that you are focusing on here. And I wish I could take credit
16 for that memorandum, because I think it's a good one, but it
17 only represented -- it was the input of a number of officers
18 who were working on this matter. And a memorandum of this
19 nature to the Secretary of Defense himself would have had to
20 have been coordinated, as a minimum, with the Chairman of the
21 Joint Chiefs, and probably all the Chiefs. Roger Shields
22 undoubtedly chopped on this message, or coordinated I should
23 say. And probably a number of other DIA and others.

24 So I was an action officer and it was my job -- I'm sure
25 I was told by probably Assistant Secretary Eagleburger, after

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1 a SECDEF staff meeting would be my guess. When this was first
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4 And then when I read it I did remember it, but it was
5 unusual for us in my section to draft POW-type correspondence,
6 because we had an office for POW affairs. I believe that my
7 office was assigned the primary drafting responsibility in
8 this case because this memorandum was kind of operational in
9 nature rather than just an accounting kind of report.

10 Because, after all, it recommended a diplomatic track and
11 a military track. Which we knew, of course -- we could read
12 the papers too, those of us who drafted it -- that the force
13 option would be one that would be hard for the decisionmakers
14 to take given the environment that existed in the country at
15 that time. Nonetheless, we thought it was feasible. So I
16 guess I part company with some who have testified who said
17 that they did not think that the force option was even
18 remotely available. We obviously felt it was.

19 But what was going on with respect to the POW's is we
20 were tracking as carefully as we could all the intelligence
21 information available on POW's, especially after it became
22 clear that there was going to be a Paris Accord. Because we
23 knew this would -- knowing the Vietnamese as we knew them, we
24 knew this was going to be a really tough -- a tough matter.

25 We also knew that the notion that there was a Pathet Lao,

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1 as Ambassador Godley said -- you know they existed but they
2 didn't have any power. The North Vietnamese army had them
3 completely in their control.

4 Vice Chairman Smith: Can I just interrupt.

5 General Secord: Yes.

6 Vice Chairman Smith: I do not want to interrupt your
7 story at all, I just want to ask you a point right there. So
8 based on your tracking, then, there were confirmed U.S. POW's
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10 General Secord: Indeed. You've mentioned some of their
11 names earlier this morning.

12 Vice Chairman Smith: Do you have any idea how many? ?

13 General Secord: No, sir, I can't remember. But there
14 were a number of names that we knew with -- what do you know
15 for sure. I mean with reasonable certitude we knew.

16 *Where
are the
stories?* For instance, the famous case of Hrdlicka and two others.
17 I had personal knowledge of that because I was involved in an
18 abortive attempt to rescue those guys back in late '66 or '67,
19 I think it was. You would have to go to CIA to get all those
20 cables, but there's a raft of cables on that. We knew that
21 they existed alive because we had an agent inside. We knew
22 their names, we knew where they were.

23 Vice Chairman Smith: And I just want -- again for the
24 record, and again I apologize for interrupting your flow
25 there. When you say POW's in Laos, a number, you are

ALDERSON REPORTING COMPANY, INC.
1111 FOURTEENTH STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20005
(202) 289-2260
(800) FOR DEPO

DEFENSE INFORMATION REPORT: EVALUATION				INSTRUCTIONS: <i>Completed by Pencil or Ball Point Pen</i>			
CUSTOMER NUMBER B-390	IR NUMBER TDCS-314/04249-66	COLLECTION PROJECT NUMBER [REDACTED]	IR DATE YEAR: [REDACTED] MONTH: 0 DAY: 3 YEAR: [REDACTED] MONTH: 2 DAY: 9				
TO:	ICR NUMBER/OTHER REFERENCE	SOURCE NUMBER	DATE RECD BY DISSEMINATION ACTIVITY YEAR: [REDACTED] MONTH: [REDACTED] DAY: [REDACTED]				
THRU:	SII CODE(S)	TARGET COUNTRY (IES) LAOS/NORTH VIETNAM	DATE RECEIVED BY EVALUATOR YEAR: [REDACTED] MONTH: [REDACTED] DAY: [REDACTED]				
REASON FOR EVALUATION		3. <input type="checkbox"/> SELECTED BY COL MGR	IR ORIGINATOR CIA				
1. <input type="checkbox"/> ICR		4. <input type="checkbox"/> SPECIAL REQUEST					
2. <input type="checkbox"/> COLLECTOR'S REQUEST		5. <input checked="" type="checkbox"/> ANALYST INITIATIVE					
A. IR RESPONDED TO		B. RELIABILITY OF INFORMATION		C. VALUE OF INFORMATION			
1. <input type="checkbox"/> DIRM Part Three		1. <input type="checkbox"/> Confirmed by other sources		1. <input type="checkbox"/> High (Unique, Timely, and of Major Significance)			
2. <input type="checkbox"/> CIR		2. <input checked="" type="checkbox"/> Substantially true		2. <input checked="" type="checkbox"/> Moderate (Contributory and Useful)			
3. <input checked="" type="checkbox"/> ICR - If checked, ICR was satisfied		3. <input type="checkbox"/> Cannot be judged		3. <input type="checkbox"/> Low (Marginal)			
a. <input type="checkbox"/> Completely		4. <input type="checkbox"/> Doubtful		4. <input type="checkbox"/> None (Of no use)			
b. <input checked="" type="checkbox"/> Partially (If b or c checked, include Guidance in Remarks Section)		5. <input type="checkbox"/> False		5. <input type="checkbox"/> Cannot be judged (Analyst has no basis for value judgement)			
c. <input type="checkbox"/> Not at all							
4. <input type="checkbox"/> Other							
D. USABILITY OF INFORMATION							
1. <input checked="" type="checkbox"/> Used or planned for use in product		2. <input checked="" type="checkbox"/> Incorporated in Data Base		4. <input type="checkbox"/> Not used (All responses require explanation in Remarks section)			
a. <input checked="" type="checkbox"/> Basic Intelligence		a. <input type="checkbox"/> Potentially Useful		a. <input type="checkbox"/> Unreliable			
b. <input type="checkbox"/> Current Intelligence		b. <input checked="" type="checkbox"/> Background/Confirmatory		b. <input type="checkbox"/> Too Fragmentary			
c. <input type="checkbox"/> Estimative Intelligence		3. <input type="checkbox"/> Stimulus for Intelligence Guidance or Requirement		c. <input type="checkbox"/> Duplication			
d. <input type="checkbox"/> Other				d. <input type="checkbox"/> Not Pertinent to Needs			
NAME OF PRODUCT:							
REMARKS (Number and Classify each Paragraph) ***REEVALUATION***							
<p>(U) Source claimed to have seen one U.S. pilot at Ban Nakay, Laos on or about 16 Jan 1966, and he claims to have seen another pilot parachute from a jet in Thanh Hoa Province, North Vietnam during Oct 1965.</p> <p>(U) The pilot source saw at Ban Nakay was possibly David L. Hrdlicka, USAF (PW). Source stated that the search for the pilot and his aircraft occurred between 10 and 16 Jan 1966. The search probably occurred in the same time frame as the downing particularly since source said the pilot was dressed in flight attire when observed. Hrdlicka was downed and captured on 18 May 1965, and source is probably confused about the date the incident occurred. However, his other information correlates well to Hrdlicka. The area in which source said the crash aircraft was found is in the immediate vicinity of Hrdlicka's location. Furthermore, the U.S. 105 designation mentioned equates to the F-105 Hrdlicka was flying. Source's description of the pilot does fit that of Hrdlicka. However, there is no information indicating that Hrdlicka was ever sent to North Vietnam, as source claimed he heard.</p> <p>(U) Regarding the pilot source claimed he saw parachute in October 1965, a search of the incidents that occurred in Thanh Hoa Province indicates George R. Hall, USAF (returnee) was downed in this province 20-16-00N/105-59-00E on 27 September 1965, and his incident may equate to source's information. Source further stated that the pilot's aircraft</p>							
VALUATOR'S RELEASE and DISCLOSURE GUIDANCE (continued)							
1. <input type="checkbox"/> Paragraph(s) _____ above are releasable to the government of _____							
2. <input type="checkbox"/> Evaluation is Not Releasable							
3. <input type="checkbox"/> Releasable Evaluation Not Requested							
VALUATOR'S ORGANIZATION DIR-4H		NAME OF EVALUATOR PENNY GARDNER		DOWNGRADING AND DECLASSIFICATION INSTRUCTIONS			
DATE EVALUATED		SIGNATURE OF APPROVING					
YEAR	MONTH	DAY					
75	08	29					
FORM 1480 1 JUN 73			EDITION OF APR 66, IS OBSOLETE.			UNCLASSIFIED	

ATTACHMENT #3

55

~~UNCLASSIFIED~~

Continuation of REEVALUATION OF TDCS-314/04249-66

was a jet, bearing the number "101." Hall was pilot an RF-101, which could correlate to source's statement.

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MISSING AMC CAPTURED U.S. MILITARY PERSONNEL
CHRONOLOGICAL NAME LIST

HOSTILE MISSING

NAME	GRADE	SERVICE NO	SERVICE	COUNTRY OF CASUALTY	DATE OF CASUALTY
THURNTON LARRY C	MSGT	20653753	AIR FORCE	LAOS	24 DEC 65
WOOD, DUN CHARLES	MAJ	54163	AIR FORCE	LAOS	16 JAN 66
WEGAN JAMES THOMAS JR	CAPT	809046	MARINE CORPS	SOUTH VIETNAM	21 JAN 66
WIDMAN WILLIAM STANNARD	LT	620258	NAVY	SOUTH VIETNAM	22 JAN 66
WRENNEA EDMUND HENRY	AMHC	790091R	NAVY	SOUTH VIETNAM	22 JAN 66
SEWNETT ROBERT RUSSELL	AURI	4930026	NAVY	SOUTH VIETNAM	22 JAN 66
TEMPLEIN ERWIN BERNARD JR	LT	669593	NAVY	SOUTH VIETNAM	24 JAN 66
BOJZE DELMAR GEORGE	1LT	807033	MARINE CORPS	SOUTH VIETNAM	24 JAN 66
HEBER LAWRENCE NEAL	1LT	381419	MARINE CORPS	SOUTH VIETNAM	24 JAN 66
PIET ALBERT	PAJ	071583	MARINE CORPS	SOUTH VIETNAM	24 JAN 66
SPICK DOYLE ROBERT	CAPT	276390	MARINE CORPS	SOUTH VIETNAM	24 JAN 66
MOJGSON CECIL J	SFC	1040059	ARMY	SOUTH VIETNAM	29 JAN 66
HAMILTON EUGENE DAVID	PAJ	29570	AIR FORCE	NORTH VIETNAM	31 JAN 66
LOHEDD HUBERT BRADFORD	CDR	513133	NAVY	NORTH VIETNAM	01 FEB 66
BRIWILBUR RONALD	CAPT	59639	AIR FORCE	SOUTH VIETNAM	03 FEB 66
CAITER JAMES LOUIS	LTC	25869	AIR FORCE	SOUTH VIETNAM	03 FEB 66
PAISLEY EDWARD MILTON	SSGT	13350844	AIR FORCE	SOUTH VIETNAM	03 FEB 66
WALLER THERMAN MORRIS	SSGT	17613586	AIR FORCE	SOUTH VIETNAM	03 FEB 66
MUNTER RUSSELL PALMER JR	MAJ	66619	AIR FORCE	LAOS	10 FEB 66
KIEFEL ERNST PHILIP JR	PAJ	65862	AIR FORCE	LAOS	10 FEB 66

PAGE

4

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NATIONAL DEFENSE INFORMATION REPORT EVALUATION

INSTRUCTIONS: Be completed by
Typewriter or Ball Point Pen

52

ATTACHMENT #2

CUSTOMER NUMBER B 390		ICR NUMBER TDCS-314/04155-68		COLLECTION PROJECT NUMBER		IR DATE YEAR MONTH DAY 6 8 0 3 1 2		
TO:		ICR NUMBER/OTHER REFERENCE		SOURCE NUMBER		DATE RECD BY DISSEMINATION ACTIVITY YEAR MONTH DAY		
THRU:		SII CODE(S)		TARGET COUNTRY (IES) LA		DATE RECEIVED BY EVALUATOR YEAR MONTH DAY		
REASON FOR EVALUATION		3. <input type="checkbox"/> SELECTED BY COL MGR		4. <input type="checkbox"/> SPECIAL REQUEST		IR ORIGINATOR CIA		
2. <input type="checkbox"/> COLLECTOR'S REQUEST		5. <input checked="" type="checkbox"/> ANALYST INITIATIVE						
A. IR RESPONDED TO			B. RELIABILITY OF INFORMATION			C. VALUE OF INFORMATION		
1. <input type="checkbox"/> DIRM Part Three			1. <input type="checkbox"/> Confirmed by other sources			1. <input type="checkbox"/> High (Unique, Timely, and of Major Significance)		
2. <input type="checkbox"/> CIR			2. <input type="checkbox"/> Substantially true			2. <input checked="" type="checkbox"/> Moderate (Contributory and Useful)		
3. <input checked="" type="checkbox"/> ICR - If checked, ICR was satisfied			3. <input checked="" type="checkbox"/> Cannot be judged			3. <input type="checkbox"/> Low (Marginal)		
a. <input type="checkbox"/> Completely			4. <input type="checkbox"/> Doubtful			4. <input type="checkbox"/> None (Of no use)		
b. <input checked="" type="checkbox"/> Partially (If b or c checked, include Guidance in Remarks Section)			5. <input type="checkbox"/> False			5. <input type="checkbox"/> Cannot be judged (Analyst has no basis for value judgement)		
c. <input type="checkbox"/> Not at all								
d. <input type="checkbox"/> Other								
D. USABILITY OF INFORMATION								
1. <input checked="" type="checkbox"/> Used or planned for use in product			2. <input checked="" type="checkbox"/> Incorporated in Data Base			4. <input type="checkbox"/> Not used (All responses require explanation in Remarks section)		
a. <input checked="" type="checkbox"/> Basic Intelligence			a. <input checked="" type="checkbox"/> Potentially Useful			a. <input type="checkbox"/> Unreliable		
b. <input type="checkbox"/> Current Intelligence			b. <input type="checkbox"/> Background/Confirmatory			b. <input type="checkbox"/> Too Fragmentary		
c. <input type="checkbox"/> Estimative Intelligence			3. <input type="checkbox"/> Stimulus for Intelligence Guidance or Requirement			c. <input type="checkbox"/> Duplication		
d. <input type="checkbox"/> Other						d. <input type="checkbox"/> Not Pertinent to Needs		
NAME OF PRODUCT:								
REMARKS (Number and Classify each Paragraph) ** RE-EVALUATION **								
<p>Source stated that a USAF plane was shot down near Ban Na Kay in early June 1966 and that the pilot was captured and imprisoned in one of the caves. According to the source, who claimed he gave the pilot anti-malaria and other injections on about ten occasions, the pilot had blue or green eyes and thinning dark brown hair. The source was told that the pilot's name was Davis, Davit, or David and that he had three sons. Source further stated the pilot and one of his guards were killed when a relief guard fired in their direction.</p> <p>Additionally, source stated he heard that a USAF pilot, shot down in late 1965 in the Ban Na Kay area, had been captured by the Pathet Lao and died of malaria in 1966.</p> <p>The pilots referred to probably correlate to Charles E. Shelton and David L. Hrdlicka (both USAF unaccounted-for PWs). Although the incident dates source provided are in error, the Ban Na Kay shot down area correlates to both Shelton, downed on 29 April 1965, and Hrdlicka, downed on 18 May 1965. In other reports which have described two U.S. pilots and have been correlated to these individuals, it has been difficult to positively ascertain which of the PWs was Shelton and which was Hrdlicka. This difficulty is caused by the fact that the incident, descriptions, and confinement of these two individuals were quite similar. There have been other reports that one pilot was shot and another died of malaria.</p>								
EVALUATOR'S RELEASE and DISCLOSURE GUIDANCE								
1. <input type="checkbox"/> Paragraph(s) above are releasable to the government of								
2. <input type="checkbox"/> Evaluation is Not Releasable								
3. <input checked="" type="checkbox"/> Releasable Evaluation Not Requested								
EVALUATOR'S ORGANIZATION			NAME OF EVALUATOR			DOWNGRADING AND DECLASSIFICATION INSTRUCTIONS		
DIR-4H			PENNY GARDNER					
DATE EVALUATED			YEAR MONTH DAY					
75			09					

DD FORM 1480
1 JUN 73

EDITION OF APR 66 IS OBSOLETE

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CONTINUATION OF EVALUATION OF TDCS-314/04155-68

while in captivity. However, if these reports are true, it cannot be positively determined exactly which individual was shot and which died of malaria. Furthermore, sources reporting on these individuals may have provided confused and/or erroneous information.

In TDCS-314/04155-68 neither, of the incident dates (early June 1966 and late 1965) equates to either Hrdlicka or Shelton. However, as previously mentioned, the Ban Na Kay incident location is accurate for both individuals. Source stated that the first PW had blue or green eyes, thinning dark brown hair and was named Davis, Davit or David. This description could refer to David Hrdlicka who does have brown hair and blue eyes. (Shelton has brown hair and brown eyes). However, the information that this pilot had three sons correlates exactly to the number of sons Shelton has, whereas Hrdlicka has only two sons.

Although a positive differentiation between the two pilots cannot be made, the report is of value for casualty resolution consideration inasmuch as it indicated both individuals died in captivity.

A copy of this report and evaluation will be placed in the files of Shelton and Hrdlicka.

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MISSING AND CAPTURED U.S. MILITARY PERSONNEL
CHRONOLOGICAL NAME LIST

HOSTILE MISSING

NAME	GRADE	SERVICE NO	SERVICE	COUNTRY OF CASUALTY	DATE OF CASUALTY
ALBERTON, ROBBY JOE	TSGT	19537917	AIR FORCE	NORTH VIETNAM	31 MAY 66
CASE, THOMAS FRANKLIN	MAJ	3086544	AIR FORCE	NORTH VIETNAM	31 MAY 66
EDMONSON, WILLIAM ROTHROC	CAPT	3150434	AIR FORCE	NORTH VIETNAM	31 MAY 66
HARMORTH, ELROY EDWIN	SSGT	17567464	AIR FORCE	NORTH VIETNAM	31 MAY 66
HEROLD, NED RAYMOND	CAPT	3131266	AIR FORCE	NORTH VIETNAM	31 MAY 66
KC DONALD, EMMETT RAYMOND	CAPT	74874	AIR FORCE	NORTH VIETNAM	31 MAY 66
MAGLAND, DAYTON WILLIAM	LTC	1918271	AIR FORCE	NORTH VIETNAM	31 MAY 66
SHINGLEDECKER, ARMON D	CAPT	3140092	AIR FORCE	NORTH VIETNAM	31 MAY 66
STEEN, MARTIN WILLIAM	CAPT	55805	AIR FORCE	NORTH VIETNAM	31 MAY 66
STICKNEY, PHILLIP JOSEPH	SSGT	12443156	AIR FORCE	NORTH VIETNAM	31 MAY 66
TOOK, HAROLD JACOB	CAPT	3132281	AIR FORCE	NORTH VIETNAM	31 MAY 66
KRYZAK, THEODORE EUGENE	MAJ	3039659	AIR FORCE	LAOS	03 JUN 66
MARTIN, RUSSELL DEAN	CAPT	3131868	AIR FORCE	LAOS	03 JUN 66
MULLINS, HAROLD EUGENE	TSGT	16374414	AIR FORCE	LAOS	03 JUN 66
MOSE, LUTHER LEE	TSGT	25919253	AIR FORCE	LAOS	03 JUN 66
SMITH, HARDING EUGENE SR	LTC	42179	AIR FORCE	LAOS	03 JUN 66
GARREN, ERVIN	TSGT	13581482	AIR FORCE	LAOS	03 JUN 66
HARRIS, GREGORY JOHN	SGT	2077294	MARINE CORPS	SOUTH VIETNAM	12 JUN 66
HURKART, CHARLES W JR	MAJ	3056063	AIR FORCE	LAOS	13 JUN 66
HERR, EVERETT OSCAR	CAPT	3082286	AIR FORCE	LAOS	13 JUN 66

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MISSING AND CAPTURED U.S. MILITARY PERSONNEL
CHRONOLOGICAL NAME LIST

HOSTILE MISSING

NAME	GRADE	SERVICE NO	SERVICE	COUNTRY OF CASUALTY	DATE OF CASUALTY
SULLIVAN, JOHN BERNARD III	CAPT	3132135	AIR FORCE	NORTH VIETNAM	21 JUN 66
SMITH WARREN PARKER JR	MAJ	31766	AIR FORCE	LAOS	22 JUN 66
STELLS WILLIAM JR	PFC	14044342	ARMY	SOUTH VIETNAM	24 JUN 66
MARK CHARLES WELDON	LT	669277	NAVY	NORTH VIETNAM	25 JUN 66
SMITH GENE ALBERT	LCDR	545534	NAVY	NORTH VIETNAM	27 JUN 66
GAGE ROBERT HUGH	CPL	2128584	MARINE CORPS	SOUTH VIETNAM	23 JUL 66
WESTLE ROOSEVELT JR	LTC	42987	AIR FORCE	NORTH VIETNAM	26 JUL 66
MORGAN CHARLES ELZY	PAJ	3087970	AIR FORCE	NORTH VIETNAM	26 JUL 66
TOMES JACK H	MAJ	65155	AIR FORCE	NORTH VIETNAM	27 JUL 66
WILKINS GEORGE HENRY	LCDR	604485	NAVY	NORTH VIETNAM	11 JUL 66
DIAMOND STEPHEN WHITMAN	CAPT	3147934	AIR FORCE	NORTH VIETNAM	19 JUL 66
HARRAY LAWRENCE	MAJ	3054827	AIR FORCE	NORTH VIETNAM	28 JUL 66
LEWIS MERRILL RAYMOND JR	MAJ	3034599	AIR FORCE	NORTH VIETNAM	28 JUL 66
MC DANIEL NORMAN ALEXANDER	CAPT	55957	AIR FORCE	NORTH VIETNAM	28 JUL 66
MEANS WILLIAM HARLEY JR	PAJ	3058983	AIR FORCE	NORTH VIETNAM	20 JUL 66
MELSON WILLIAM HUMPHREY	COL	33450	AIR FORCE	NORTH VIETNAM	29 JUL 66
NORBERT CRAIG ROLAND	CAPT	3148116	AIR FORCE	NORTH VIETNAM	28 JUL 66
TIFFIN RAINFORD	CAPT	3117459	AIR FORCE	NORTH VIETNAM	21 JUL 66
NEWSON BENJAMIN BYRON	LTC	2217686	AIR FORCE	NORTH VIETNAM	23 JUL 66
PENBERTON GENE THOMAS	LTC	26552	AIR FORCE	NORTH VIETNAM	23 JUL 66

PAGE

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Senate Select Cmte. on POW/MIA
Affairs Agenda re: Senator Bob Smith
and Mr. Chuck Trowbridge

PDAG/ISA
25 OCT 1991

Have him
set up a meeting
with Francis.
He and I should
meet first

CF —

5-7 November 1991

Format as desired by Frances Zwenig, Staff Director

5 November (0930)

- I. Paul Wolfowitz, USDP
- II. Interagency Panel
- III. Department of State (Ken Quinn)
- OSD

Note: I mentioned NSC - CANNON and G. TROWBRIDGE
Said HE WOULD CHECK WITH FRANCES Z.

(Committee does not want National League of Families on this panel)

- IV. General Vessey
- V. Defense Department panel
- OSD (ISA)
- DIA (Bob Sheets and Chuck Trowbridge)

Note: (1) Committee will accept a CINCPAC witness (MG Christmas) only
if Christmas will testify on the CINCPAC plan.

(2) Senator Smith insists on Mr. Trowbridge's participating as a
witness at the table.

- V. Peck investigation
- Duane Andrews, ASD (C3I)

6 November (0930)

- I. Field Operations
- William C. Idoury
- COL John Cole

will not allow MG Christmas to be a witness unless he
the CINCPAC plan.

7 November

DOD is expected to provide witnesses for the afternoon session, during
which we may respond to the "critics."

NAME	M
EMS	US
IS	COBY
CG	COBY

FBI
BUREAU'S COPIES AT CP

Postal Worker
(Frenchman)



DEFENSE INTELLIGENCE AGENCY

WASHINGTON, D.C. 20340



U-0218/PW-MIA

27 FEB 1990

TO: Headquarters,
Air Force Military Personnel Center
DPMCB, ATTN: Mr. George Atkinson
Randolph AFB, TX 78150-6001

SUBJECT: Reporting in the Case of Colonel David Hrdlicka, USAF

1. Late last year an analyst in this office received a telephone call from an American citizen who described himself as a ~~carrier for the U.S. Postal Service~~. He said he was in frequent contact with a "Frenchman" in Bangkok who allegedly has a source (not identified) who claims that American pilot David Hrdlicka recently escaped, only to be recaptured. He also reported that Col Hrdlicka had been seen in a PW camp in the tri-border area of Vietnam/Laos/Cambodia. No further information was offered, but the postal carrier indicated he would be in further contact with the ~~Frenchman~~ and would keep us informed. We have not heard from him since.

2. Several weeks later we received a call from another American who said he knew someone with information on Col Hrdlicka. During the conversation the analyst determined that ~~the Frenchman, who normally resides in the U.S., was the source.~~

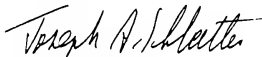
3. Also, we have been investigating a story furnished by an American in Thailand who provided the driver's license data on Col Hrdlicka. He claimed to have obtained the information from another American who received it from a Pathet Lao soldier while travelling near Luang Prabang. We were finally able to locate and interview the second American while he was visiting in Beijing. He was cooperative and provided us with other information, but he knew nothing about Col Hrdlicka and had not met and received information from a Lao soldier as claimed by the American in Thailand. When we reinterviewed the American in Thailand and told him that his alleged source knew nothing about the information attributed to him, he then indicated that maybe he got it from someone else, then changed his mind, then changed the subject, alluding to knowledge of a group of PW hunters who are allegedly working on rescuing an unidentified American in Laos. In short, the source of the data on Col Hrdlicka is unknown, but it was not obtained in the manner described by the American in Thailand in Joint Casualty Resolution Center report T89-354.

4. It is worth noting that those involved in this reporting are U.S. residents with "business interests" in Thailand. There is a reasonable possibility that these sources are connected and they may decide to expand on their story to gain attention or raise funds for a private foray. In this instance the Frenchman has a track record of involvement with U.S. "PW

hunters," who have repeatedly failed to find a PW or evidence to support their claims. Further, experience has shown that when names of missing men and identification data start making the rounds of the refugee camps and the so-called "Lao resistance" groups in Thailand, stories claiming the man is alive soon follow.

5. We are continuing to follow up on this reporting and will keep you advised of any new information we are able to develop.

Sincerely,

A handwritten signature in cursive script, reading "Joseph A. Schlatter".

JOSEPH A. SCHLATTER
Colonel, USA
Chief, Special Office for Prisoners
of War and Missing in Action

01 07 011501Z JUN 90 PP

1521506Z

CDRUSAOPSGP FT GEORGE G. MEADE MD//IAGPC-L//

DIA WASHDC//DAM-1B/PW-MIA//

INFO * ZEN CDRUSAOPSGP FT GEORGE G. MEADE MD//IAGPC-CM//

CDRUSAINSCOM FT BELVOIR VA//IAOPS-H-C//

DA WASHDC//DAMI-POH/DAMI-FII//

JCRC LIAISON BANGKOK TH

CDR JCRC BARBERS PT HI

HQ AFMPC RANDOLPH AFB TX//DPMCB//

ROGER HALL
8715 First Ave., Apt. 827
Silver Spring, MD 20910
301-585-3361

PASS: DIA/PW-MIA FOR

0000

SERIAL: IIR 2 240 5010 90.

COUNTRY: LAOS {LA}; VIETNAM {VM}.

SUBJ: IIR 2 240 5010 90/HEARSAY, RE U.S. MIA ALLEGEDLY
ALIVE IN LAOS

GLORIA F. HORN,
GS-12, DET L, USAOG

for MICHAEL A. FOX, LTC, PI, CDR, DET L

Frank Haddock

02 07 011501Z JUN 90 PP

1521506Z

WARNING: THIS IS AN INFO REPORT, NOT FINALLY EVALUATED

INTEL.

 DEPARTMENT OF DEFENSE

ROGER HALL
 8715 First Ave., Apt. 827
 Silver Spring, MD 20910
 301-585-3361

DOI: 891212.

REQS: D-VOP-2430-03-90; D-VOP-43468.

SOURCE: //OTS 2 240 0011 90//, A U.S. FEDERAL AGENT
 WHO OBTAINED THE INFORMATION IN THIS REPORT IN THE COURSE OF AND IN
 CONJUNCTION WITH OTHER OFFICIAL DUTIES.

SUMMARY: A LAOTIAN EXPATRIATE AND SELF-DECLARED LAOTIAN
 RESISTANCE GROUP LEADER CLAIMED THAT THE PATHET LAO COMMANDER OF
 THE 11TH REGIMENT AT KHAM KEUT //GEOCOORD
 KHAM MOUANG PROVINCE WAS SUSPECTED OF HOLDING "D. HERLICKA." HE

03 07 011501Z JUN 90 PP

1521506Z

DISCUSSED A POSSIBLE RESCUE ATTEMPT.

TEXT:

ROGER HALL
8715 First Ave., Apt. 827
Silver Spring, MD 20910
301.585-3361

1. SYNOPSIS. A LAOTIAN EXPATRIATE

CLAIMED IN A JUN 89 LETTER THAT THE PATHET LAO COMMANDER OF THE 11TH REGIMENT AT KHAM KEUT, KHAM MONAME PROVINCE WAS SUSPECTED OF HOLDING "D. HERLICKA." HE DISCUSSED A POSSIBLE RESCUE ATTEMPT. ADDITIONAL CORRESPONDENCE IN DEC 89 INDICATED THAT "HERLICKA" HAD BEEN HELD IN VINH PROVINCE, VIETNAM.

2. BACKGROUND. SOURCE OBTAINED COPIES OF CORRESPONDENCE BETWEEN SSC - 1 (SUBJECT 1), AN EXPATRIATE LAOTIAN AND SSC - 2 (SUBJECT 2), A FRENCH CITIZEN AND PERMANENT RESIDENT ALIEN IN THE UNITED STATES. THE CORRESPONDENCE WAS FREELY PROVIDED BY SSC - 2 ALONG WITH COPIES OF CORRESPONDENCE BETWEEN SSC - 2 AND SEVERAL U.S. CITIZENS CONCERNING INFORMATION PROVIDED BY SSC - 3. SSC - 3 WAS

SSC - 3 DATA

DATA

SSC - 2 PROVIDED SOURCE NEWSPAPER

04 07 011501Z JUN 90 PP

1521506Z

CLIPPINGS OF HIS OWN MIA "RESCUE" ATTEMPTS CIRCA 1985 AND 1986.

SSC-2 INDICATED THAT SSC-3 HAD NEW INFORMATION CONCERNING U.S. MIA STILL ALIVE IN LAOS, AND THAT HE, SSC-2, WAS WILLING TO PROVIDE INFORMATION TO THE U.S. GOVERNMENT.

3. CORRESPONDENCE IN REFERENCE TO U.S. MIA.

ROGER HALL
8715 First Ave., Apt. 827
Silver Spring, MD 20910
301-585-3361

A. EXCERPT NAMING POSSIBLE MIA. THE FOLLOWING WAS TAKEN FROM A LETTER FROM SUBJECT 1 TO SUBJECT 2 DATED 27 JUN 1989, BANGKOK. "I AM TALKING TO COL CHAENG (BRIG GEN) PL COMMANDER OF THE 11TH REGIMENT AT KHAM KEUT, KHAM MONAME PROVINCE. SUSPECTING OF HOLDING D. HERLICKA AND FRIENDS. THE OUTCOME OF MY CONVERSATION WILL BE RELAYED TO YOU SOON.

05 07 011501Z JUN 90 PP

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1521506Z

B. DATE OF LOSS. THE FOLLOWING IS A NOTATION ON A BUSINESS LETTER FROM CARL W. CURTIS TO SUBJECT 2 DATED NOV 28, 1989. "MR. H- NO- STILL MISSING- YOUR NOTE IS NEW TO AIR FORCE, STATE, DIA. HAVE GIVEN THEM YOUR PHONE NUMBER THERE. SHOT DOWN 13 MAY 65. MANY STORIES UNTIL 67/68 WHEN ASSUMED DEAD."

C. LOCATION OF MIA. THE FOLLOWING IS A FAX FROM SUBJECT 2 TO CARL DATED 12-2-89 BANGKOK. "D. H. WOULD BE DETAINED NOT FAR AWAY FROM VINH PROVINCE."

D. POSSIBLE RESCUE ATTEMPT. THE FOLLOWING IS A FAX FROM SUBJECT 2 TO RICK DATED 12-2-89 BANGKOK. "HOUNPHENG IS READY TO FREE SEVERAL US POWS AGAINST A SAFE PASSAGE TO THE US...D. HRDLICKA IS SAID TO BE DETAINED NEAR VINH PROVINCE. WHAT YOU COULD DO IS DOUBLE CHECK...".

SPECIAL COLLECTOR'S COMMENTS

1. SEARCH OF MIA RECORDS. DIA PERSONNEL MISSING IN ACTION COLLECTION SUPPORT DATA BASE LISTS AS MISSING IN ACTION -

NAME	SERNO	SERVICE	DOB	DATE/PLACE OF LOSS
HRDLICKA, DAVID LOUIS		USAF		650518 LA

06 07 011501Z JUN 90 PP

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1521506Z

2. RELEASE OF INFORMATION TO NEXT OF KIN. DUE TO THE POSSIBLE CORRELATION OF THE NAME PROVIDED IN THIS REPORT WITH THE EVENT-RECORDED IN DIA MISSING IN ACTION RECORDS, THIS REPORT IS FORWARDED TO DEPARTMENT OF THE AIR FORCE PERSONNEL FOR POSSIBLE RELEASE OF PERTINENT INFORMATION ELEMENTS IN PARAGRAPH 3, A {U} TO NEXT OF KIN AS DEEMED APPROPRIATE.

COMMENTS: THIS IS THE SECOND OF TWO REPORTS FROM SOURCE. THE FIRST WAS IIR 2 240 5009 90, HEARSAY, RE U.S. MIA/C47 CREW ALLEGEDLY ALIVE IN LAOS. SOURCE PROVIDED THE INFORMATION IN THIS REPORT WILLINGLY AND WITHOUT EVASION. ANY EVALUATIONS IN RESPONSE TO THIS IIR SHOULD BE FORWARDED TO: CDRUSAOPSGP FT GEORGE G. MEADE MD//IAGPC-L/IAGPC-CM//.

//IPSP: PG 2430//.

//COMSOBJ: 521//.

PROJ: 203000.

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1521506Z

COLL: VK.

INSTR: US: NO.

ENCL: FOUR ENCL TO FOLLOW -

1. HANDWRITTEN LETTER 1 CY, 890627, ¹APG (U), ENGLISH.
2. LETTER , 1 CY, 891128, 1P ENGLISH.
3. FAX , 1 CY, 891202, 1P, ENGLISH.
4. FAX , 1 CY, 891202, 1P, ENGLISH.

PREP: 2-10321.

ACQ: FT GEORGE G. MEADE, MD (900426).

DISSEM: FIELD: NONE; SENT TO: DIA//RTS-2B/PW-MIA//

-

Richard Allen Memo

- Walfowitz
- Amunteg
- Ikle

Feb 1981 mtg -

Roosevelt Room (Oct. Room not)

15 people

Rov (P), (VP) Casey

(A) Coy

Thurs, Baki, Davis

LOZ had telegram / Politburo → then China, Canada, to me
 NVA claim 57 men; wants * 4 B.

Following week - another mtg - also in Roosevelt Room.

Casey goes to (P) - says climbed up NSA; says we know who & where they are. Baker angry at Casey going directly to (P).

C O N T E N T S

THE WITNESS	EXAMINATION BY COUNSEL FOR
RICHARD V. ALLEN	THE SELECT COMMITTEE ON POW/MIA AFFAIRS
By Mr. Codinha	3

E X H I B I T S

ALLEN EXHIBIT NO.	PAGE
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P R O C E E D I N G S

MR. CODINHA: On the record.

Whereupon,

RICHARD V. ALLEN,

a witness herein, called for examination by counsel on behalf of the Senate Select Committee on POW/MIA Affairs, and having been duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR

THE SELECT COMMITTEE ON POW/MIA AFFAIRS

BY MR. CODINHA:

Q. Mr. Allen, my name is Bill Codinha. I am chief counsel of the United States Senate Select Committee on POW/MIA Affairs. With me is Mr. Taylor, who is also an investigator on the committee.

We are going to be taking your deposition today and we will be asking you a series of questions, your answers to which will be given under oath as you know, since you are now sworn.

If I should ask you a question and you do not understand me or if I ask a question and it is hopelessly muddled or if I ask a question you do not understand, any portion of it, ask for clarification. Whatever you do, do not answer the question, because I will build further questions on your answers to earlier questions.

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1 If at any time you want to correct an answer or you
2 want to add or delete something from an answer, just tell me
3 as soon as you think of it and we will go back and go over
4 that area.

5 Everything you say today is on the record unless I
6 tell you it is off the record. In other words, you may have
7 used the term yourself, this is off the record. It will not
8 go off the record. She will take everything down, unless I
9 say it.

10 A transcript will be created. You will have an
11 opportunity to read and review that transcript. I cannot tell
12 the level of this, whether it is going to be committee
13 confidential, classified, secret, top secret, until I get the
14 answers to your questions.

15 Essentially we go about in hour segments. We will
16 break after about an hour for 5 or 10 minutes or whenever you
17 need it. Depositions can be tiring, so if at any time you
18 become confused, tired, or you think your answers could be
19 crisper, just tell me and we will break and we will come back.

20 You have a right to counsel at the deposition. The
21 Senate rules provide for it. You are not here with counsel.
22 I assume that means you have waived it.

23 A. That's correct.

24 Q. There is no reason I see, by the way, that you
25 should have counsel here today and I would advise you if I did

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COMMITTEE CONFIDENTIAL

DEPOSITION OF RICHARD V. ALLEN

Tuesday, June 23, 1992

U.S. Senate

Select Committee on POW/MIA

Affairs

Washington, D.C.

Deposition of RICHARD V. ALLEN, a witness herein,
called for examination by counsel for the Senate Select
Committee on POW/MIA Affairs, was convened at 2:04 p.m., in
S-407, The Capitol, on Tuesday, June 23, 1992, the witness
being duly sworn by ANNE P. HOROWITZ, a Notary Public in and
for the District of Columbia, and the proceedings having been
taken down by Stenonask by ANNE P. HOROWITZ and transcribed
under her direction.

Present from the Senate Select Committee on POW/MIA Affairs:

J. WILLIAM CODINHA, ESQ., Chief Counsel

ROBERT TAYLOR, Investigator

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1 1960's, and having watched the war wind slowly down and into
2 defeat, I was just very concerned about this issue. I
3 wouldn't say that I went out of my way to inform myself, but I
4 consumed everything that came my way.

5 And so there was no official involvement. I wasn't
6 party to any group or any gathering or any movement. But I
7 was very much concerned about this question, as anyone
8 properly should be, should have been.

9 Q. You indicated that you had been involved in the
10 Reagan campaign prior to Mr. Reagan taking office. As a
11 candidate, Mr. Reagan appeared to have a defined position on
12 the POW issue and seemed determined to resolve that issue.
13 Did you ever hear him speaking to that issue?

14 A. I couldn't help the number of times we did talk
15 about it privately. I've heard him speak publicly and open
16 about it. Of the thousands and thousands of hours that I
17 spent with Ronald Reagan over those years, I heard him speak
18 about it many times.

19 Q. Can you give me -- I realize that meetings and
20 conversations took place over many occasions and in different
21 places -- it is hard to define any single one. Can you give
22 me the gist of what Ronald Reagan was saying to you about
23 POW/MIA issues while he was a candidate?

24 A. While, it was just essentially, as long as there's
25 any evidence whatsoever that there are POW's and MIA's there,

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1 the United States should spare no effort to get them back and
2 spare no effort a term of broad application for Ronald Reagan.
3 But that was basically his attitude. That happened to reflect
4 mine, which is one of the reasons I supported Ronald Reagan.

5 Q. As a candidate, did you hear Ronald Reagan state
6 whether he believed -- at any time did you hear him
7 say -- whether he believed that there actually were POW's?

8 A. I think he did believe it. I cannot say that I
9 could pinpoint the date and time when I heard him say that,
10 but the many, many conversations I had with him certainly
11 indicated to me that he believed that there were some. There
12 was a high likelihood that there were some. Now we're talking
13 about in the role of candidate, not yet President.

14 Q. In the role of candidate.

15 A. That's his opinion. That was his opinion. That is
16 the way I would characterize his opinion at the time.

17 Q. Did you ever ask him or did anyone ask him in your
18 presence on what you based that opinion?

19 A. I can't recall.

20 Q. Did you have any opinions at that time as to whether
21 there were prisoners of war still held in Southeast Asia?

22 A. I did.

23 Q. And what was your opinion during that time of the
24 candidacy of Ronald Reagan?

25 A. Well, it was a long period, but I believe that there

1 were POW's and MIA's, and I had nothing on which to base it
2 except trace elements of evidence, if you will, like one would
3 read about from time to time, sightings that would appear in
4 the newspaper, stories that I would hear, discussions that I
5 would have with various and sundry people; stories from POW's
6 like Admiral Stockdale and others that I had heard who led me
7 to believe that there was a high probability that there could
8 be POW's and MIA's, even by 1979-'80, that time frame.

9 It was not a campaign issue, as you recall, but
10 whenever the opportunity arose, the Governor took advantage of
11 it to declare that he would do all that he could to get POW's
12 and MIA's back.

13 Q. Did you have any sense from then candidate Reagan as
14 to the numbers of POW's or MIA's that he believed existed?

15 A. No. I think he had no fixed idea.

16 Q. Did you have a fixed idea yourself in this time
17 period?

18 A. No, but I thought it likely that there were dozens,
19 perhaps 100 or more. But the odds were that somebody was
20 still alive by the time we took office 12 years ago.

21 Q. During the candidacy period, was there a plan, even
22 in the most general sense by the Reagan team, on how to
23 approach the POW issue once Ronald Reagan was elected to
24 office?

25 A. There was so much on our plate during 1980 that this

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1 could you make additions to the PDB?

2 A. Sure. No I didn't -- not formal additions, but
3 during my briefing times, of course, it was not only the PDB.
4 The President would look at the PDB, I would wait there to see
5 if he had questions. I would discuss with him certain
6 features of it and then go on to other matters that I had to
7 take up with him.

8 Q. Now you also mentioned discreet channels. You said
9 if it wasn't in the PDB, it would have gone through discreet
10 channels.

11 A. My hand. By hand, my hand. It would not have gone
12 to Meese, Deaver, or Baker, or any of those colleagues.

13 Q. When you say your hand, would you have had a formal
14 point paper for the President which would set out for him what
15 you knew?

16 A. Yes, unless I just briefed him orally, as it was
17 occasionally.

18 Q. Do you recall whether you briefed him orally?

19 A. I delivered the picture and briefed him orally.

20 Q. So you have taken the picture up and briefed him
21 orally.

22 A. Somewhere that picture exists. Had you heard the
23 story before? Would you answer my question? I know you're
24 not here to answer mine, but had you heard the story before,
25 more than once?

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1 Q. I have heard a similar story, although not -- the
2 particulars are different and that's why I'm trying to figure
3 out which one this is.

4 A. Well this is the authentic one, because I'm telling
5 you.

6 Q. Right, no -- which incident this is, because there
7 has been more than one incident reported to us. So discreet
8 channel would mean that you would take the picture up and
9 brief him orally, or you might take the picture up and give
10 him a point member that would set out the points that you
11 wanted to make about this picture?

12 A. Yes.

13 Q. And what do you recall President Reagan's response
14 to that picture being?

15 A. He was flabbergasted by it, and enthused and
16 excited.

17 Q. Why -- you've already described it, as a candidate
18 Reagan believed there was POW's in Southeast Asia still held
19 in captivity. Why would the President be flabbergasted then,
20 to find that, in his first months in office, that POW's were
21 stamping out things in the dirt?

22 A. Probably the first hard evidence he'd ever -- or
23 close to hard evidence he'd ever seen. Something really you
24 could pin a hope on, as opposed to a mere conjecture.

25 Q. How long -- do you recall how long you spent with

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1 the President on that picture when you showed it to him?

2 A. Maybe 15 or 20 minutes.

3 Q. Did he ask for explanation about it?

4 A. I gave him the explanation.

5 Q. Did you tell him about the rap code?

6 A. Yes.

7 Q. And you described to him that the symbols had
8 been told -- strike that. What did you tell the President?

9 A. I told the President what had been told to me, that
10 this symbol could represent the numbers of a rap code and told
11 him what a rap code was, as it had been explained to me. I
12 told him that he had the option of authorizing a mission to go
13 in and take a look, that -- I think he asked me what I thought
14 and I said I would certainly authorize that mission, and away
15 we go.

16 I think -- you know, I think if you look in the
17 PDB's, that you'll find some occasional mention of Gritz. And
18 I think that you'll find that probably preceded the event of
19 having been shown this picture.

20 Q. Again, I had tried to separate this picture from
21 Gritz. Are you now recombining them?

22 A. No, I'm not recombining them at all. I'm just
23 saying Gritz would have -- the issue -- if Gritz had appeared
24 in the PDB, or I in some other way had conveyed that to the
25 President, which I don't specifically recall having done, that

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1 would have sensitized him to the issue of expedition --
2 expeditionary forces going in to take a look, to get close.
3 That was the only objective, to get close.

4 They weren't in there to go in and liberate, because
5 they didn't have the power or the means of extraction; they
6 didn't have anything but to get in and ascertain. And then I
7 was almost certain that if we could ascertain the existence of
8 POW's and MIA's, that the President would authorize action.

9 Q. And you said -- you explained that one of the
10 options that the President was to have a mission go in and
11 take a look. How did you know that was an option?

12 A. Because I either -- either I generated the option
13 out of my own head, or it was presented as a possibility at
14 the time that the picture's existence was revealed to me and
15 its potential significance was explained.

16 Q. Would you have talked to anyone else before you
17 described the options to the President of what options he had?

18 A. Not likely.

19 Q. Again, I'm not familiar with the workings of a
20 National Security Advisor's relationship with the President,
21 so you're going to have to --

22 A. It depends on his personal relationship with the
23 President. Each one will be -- each National Security Advisor
24 will have a different relationship, even with the same
25 President. And certainly we had a wide-spread parade of

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1 National Security Advisors.

2 Q. Try to help me understand that if you got this
3 information, and we will say it happens at, you know, 8:00 in
4 the morning, you get this information from the CIA. And do
5 you immediately go and brief?

6 A. As soon as I get the President. In this case I
7 believe I went as soon as i could get to him, or I may have
8 even made a special attempt to see the President.

9 Q. And do you believe it was also at that time that you
10 explained to him his options?

11 A. As soon as I took him the picture, I believe it
12 is -- was.

13 Q. And at least one option that you have described is
14 to send in a mission to take a look. Did you describe any
15 other options he had?

16 A. I guess the only other option was to say interesting
17 picture and be done with it. You know, that was the other
18 option.

19 Q. Do you recall having any discussions with the
20 President about what the -- who would run the mission?

21 A. I think I would have described to him who would run
22 the mission, yeah. I believe the agency ran the mission.

23 Q. Was that at your suggestion, that the agency ran the
24 mission?

25 A. I think the agency may have suggested it, that it

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1 run the mission. It certainly wasn't military. As I recall,
2 the military wouldn't have had the assets in place. That was,
3 I think also, part of the difficulty in collecting assets.
4 Although I couldn't understand, as I recall now, why the
5 assets in Northeast Thailand wouldn't have been immediately
6 made available to whomever was going to go in.

7 Q. Let me see if I can just understand how the idea for
8 a mission gets generated. Is it something you give to the
9 President as an option? Is that the first time a mission is
10 mentioned, or was it mentioned earlier to you that the CIA
11 said we can go in there and do this?

12 A. I think I said that it could have been mentioned as
13 an option when I first saw the picture. I can't recall. But
14 it would have been my instinct under the circumstances, given
15 my beliefs, to put one in there anyway. I don't care who gets
16 the credit for establishing that there ought to be a mission.
17 If it was the agency or anybody else, it's perfectly all right
18 with me.

19 A lot of them down here -- it doesn't bother anyone
20 in this case. The object is to get in there as quickly as you
21 possibly can and have a look. And it took -- it took, as I
22 say, bloody forever, for them to get mobilized, and another
23 bloody forever for them to get in there.

24 Q. You had 31 or so people on your professional staff
25 at the NSC. Would you have reached out to any of those people

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1 1975 and it comes forward to 1992, that's a long span of time.
2 And a lot of people have been in office, especially in the
3 Pentagon, ostensibly in charge of this business of finding and
4 getting POW's and MIA's out.

5 And, as I say, I can't recall, but there have been
6 constant battles, waves of battle, over the issue of whether
7 they're all out or not. And a lot of people have come to the
8 conclusion yes, they are, or they're all accounted for, there
9 can't be any more. Just like it can be -- it's said, perhaps,
10 that there are no more in North Korea from the Korean War.

11 And I'm not prepared to believe any of that until
12 I've got some more convincing and persuasive evidence. I also
13 believe we don't have any accounting for all of the AWOL's out
14 of Vietnam. Where are these people? They went over by the
15 dozens, I'm sorry to say -- they went AWOL by the dozens. And
16 who has ever accounted for them? As I understand it, they're
17 in the POW/MIA account as well. Maybe not, I don't know
18 whether they're on that ledger or not.

19 So all those people missing, unaccounted for all
20 these years. I'm still not persuaded that they were all put
21 to death or that they all died of natural causes or of torture
22 and punishment. I am convinced that there is still a
23 reasonable chance in 1992 that there are some alive,
24 someplace, somewhere.

25 Q. You mentioned that --

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1 A. And to come back to the careers, I just want to
2 finish the point.

3 Q. That's the question I was going to come back to.

4 A. The careers of people who signed off on the notion
5 that they were all accounted for and you couldn't account for
6 any more, that's what I mean careers are built on this. And
7 you go back into the Office of POW/MIA Affairs in the
8 Pentagon, or whatever the dickens they call it, and find out
9 just how many people were in the office over the last span of
10 years, since 1975. Pretty many, a lot of people were, a long
11 time. I shouldn't say '75, I should go back to '65 to be
12 perfectly accurate about it. It's a longer span still since
13 the Johnson administration.

14 Q. Now with respect to the careers were at stake.

15 A. It's a political opinion I'm giving you.

16 Q. Okay, do you remember anyone that you dealt with
17 that took the position that there couldn't be any alive and
18 there was no sense of sending a team in, or, you know, from
19 any agency?

20 A. At that time?

21 Q. Yes.

22 A. I can't remember anybody specifically, but I do
23 remember opposition to the idea.

24 Q. Do you remember what agency?

25 A. I believe it came from the Pentagon, and I

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1 believe -- I know it came from the State Department. But we
2 didn't take the by -- we didn't ask for a by your leave from
3 the Department of State in this case. They had to --
4 obviously had to know about it. I don't remember who knew in
5 State, but --

6 Q. I'm sorry, you don't remember.

7 A. I don't remember who would have been --

8 Q. Because that was the question I was going to ask,
9 who was the contact at State.

10 A. Maybe I told Al Haig.

11 Q. And at the Department of Defense, do you recall who
12 would have been involved with this?

13 A. Well it wouldn't have been Weinberger or Carlucci,
14 typically, so it must have been Clay. I presume you're going
15 to talk to Freddy Clay anyway, so as Undersecretary for Policy
16 he would be the most effective, and you're certainly going to
17 talk to Rich Armitage; he knows as much as anyone about this.
18 I haven't talked to him about it in some years.

19 Q. Now, it was your understanding from talking to the
20 CIA that there were going to be Americans on the team going
21 in. There were going to be Laotians who had to guide the team
22 in.

23 A. And I presume Vietnamese.

24 Q. You indicate that it took a long time, and I think
25 you said too long a time.

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Mr. DORNAN. Thank you, Mrs. Hrdlicka. You have copies of all those documents?

Mrs. HRDLICKA. Yes.

Mr. DORNAN. If you could supply my personal staff and the committee staff, we will give it to the committee staff also. Just get a set of those documents and then submit the other set for our official recorder and it will be at the end of your statement.

There is a lot of hurt in your statement but you came slow to making yourself an expert analyst and having to go to the archives and do this yourself. You can imagine how much more desperate the situation is where there were hundreds of people alive at the end of the war, Korea.

Mr. DORNAN. Donna Downes Knox, Legal Counsel for the Board of Directors of the Korean/Cold War Family Association of the Missing.

Ms. KNOX. Thank you, Mr. Chairman.

Mr. DORNAN. Your full statement will go in the record. You can summarize it. It is your call.

Ms. KNOX. Thank you, I will summarize.

STATEMENT OF DONNA DOWNES KNOX, LEGAL COUNSEL, AND MEMBER OF THE BOARD OF DIRECTORS, THE KOREAN/COLD WAR FAMILY ASSOCIATION OF THE MISSING

Ms. KNOX. There are additional comments that I make on behalf of our members that pertain to provisions that Senator McCain's amendment have stricken from the act that really do not relate to missing Americans from the Korean and cold wars. I will not address those remarks here now but they will be in my full statement.

I am here on behalf of the Korean and cold war MIA's of which there are more than 8,700. Those numbers are not often correctly quoted. These men are more often than not written off and forgotten as though they do not exist and never did exist.

But the men from Korea have been gone for more than 40 years. When they went missing, their families were promised by the government that it would pursue every available lead as to what happened to them and we were told that we would be kept abreast of every piece of information that came to our government, and needless to say after the testimony that we have heard today, neither of those promises were kept and we now know that the government did not even try to find out what happened to these men, it simply wrote them off for dead. It across the board changed their status from MIA to killed in action and moved on to the post war years.

I personally have searched long and hard for information about my father, as have others. We have all been told that there is no information about our family members individually or about the collective MIA group. This of course is not true. There is a great deal of information, including hundreds of intelligence reports that were gathered at the time that told the story of what was happening to many of our men, including the transfers out of North Korea of hundreds if not thousands of American POW's to China and the former Soviet Union.

When the war was over no one was charged with gathering this information that was spread about the myriad repositories around

the world nor charged with the duty of analyzing it, comparing one to the other. There was no investigation launched, there was no framework within which to work. In short, there was never an intention to account for these men.

After decades in which our government has done nothing to find them, the Missing Service Personnel Act is finally passed and it is the first law that offers real promise of some progress on this issue. It puts in place policies and procedures that will protect the missing individuals and enhance the likelihood that they and others like them in the future will be repatriated. We have not yet had a chance to implement this law and it has been gutted, as we have been discussing today.

Some of the seven provisions that have been taken out by Senator McCain do not pertain directly to the Korean war or cold war MIA's and I will not comment on them today, but our organization recognizes the value of all seven of the provisions that currently exist in the act and we support fully their reinstatement.

The few provisions that I will address do pertain to the Korean war and cold war missing personnel. The first and foremost with regard to the Korean war individuals deals with section 1509. Section 1509(b) provides review of MIA cases from Korea if and when new information should come to light that might suggest that a change in the individual's status could be warranted. As I understand it, that provision initially was targeted for repeal but ultimately was left intact.

However, section 1509(c) which deals with KIA/BNR's is a different matter. For the record, that acronym stands for killed in action, body not recovered. This provision authorizes review of Korean War KIA/BNR cases if and when compelling new information should come to light that would suggest a possible change of status would be warranted. The difference between the two, the first being MIA's, the standard is new information and the second, KIA/BNR, the standard is compelling new information. Senator McCain succeeded in eliminating the second.

As a threshold matter we find it unconscionable that anyone in our government would seek to eliminate review of the case of a missing American where compelling new evidence had come to light that the person had been misclassified as a KIA and might still be alive. More to the point, I would like the Members to be reminded that after the Korean war all of the MIA's were reclassified across the board as KIA/BNR cases. This was not done because there was sufficient or any evidence to justify a finding of death. This was done for economics. It was more costly to carry these men as missing than it was to declare them dead and pay out death benefits. So across the board all 8,500 which pertain to the Korean war were declared KIA/BNR.

Now we have this provision, the only one which pertains to that class of men that has been eliminated, and we are concerned that this amounts to a back-door attempt to eliminate all review for all Korean war cases as was originally intended by Senator McCain and those on whose behalf he works.

The term "MIA" is bandied about even with regard to the Korean war missing personnel, but as far as the Pentagon is concerned, legally, technically there are no Korean war MIA's, they are all KIA/

BNR's and we do not want this to open up a confusing loophole in the law that will be used later on to neutralize all of the other retroactive provisions in the act that do pertain to the Korean war missing personnel. The missing—

Mr. DORNAN. Would you please say that again? Where you don't want it to confuse the way the law is written now.

Ms. KNOX. We are afraid that eventually we will start seeing denial of any requested review for MIA indications where arguably compelling new evidence would come up. They will point to this provision and say it was removed from the law and you will see we have no MIA's from Korea, so they will use it against us to deny after the fact.

The Korean war MIA's have never had their due. But it is especially inappropriate at this time when relations with North Korea have begun to open up for the first time in the 43 years since the war. Additionally, numerous live-sighting reports have begun to come to light even all these years later. It defies common sense and common decency to specifically legislate these men out of an opportunity for review of their cases just at the time when a window of opportunity appears to be opening for them. We run the risk of creating a confusing loophole and we urge that this repealed provision be reinstated. The standard is a very high one. It must be compelling new information. There is no reason to repeal this amendment. The only possible motive could be a desire to bury these cases once and for all.

The next provision that I would like to address others have touched on but it so extensively affects the Korean war families and their missing men, is the one pertaining to criminal penalties. As we have stated here today, currently the law provides for criminal penalties for the willful and intentional withholding of information and for nothing else. Government officials have been withholding information from the Korean war families since the time of the war and for every year and every decade since up until this very year.

At the end of the war, when President Eisenhower was told—he probably knew before then—he was told of the hundreds of intelligence reports referring to the transfers north out of North Korea of our POW's, he was told to write them off for dead because they would not be given up easily and it would be a great effort that the United States would have to put forth to get them back.

This information was not shared with the families, nor was any other information about the POW's that were held back after the war as well as those that were transferred north. Exclusion of the families from this crucial information has continued, and whatever the reason for doing so, it was not rooted in the best interests of the missing men.

Politics and bureaucracy too often dictate the course of action. Since the families began to unite and demand a full accounting, we now have an official POW/MIA office. Undoubtedly, some in that office are dedicated to its purpose, but we face tremendous problems in seeing any real progress. That office has had millions of dollars and several years and it has not solved one case. No questions about the Americans who were held back have been answered, and there is a lingering tendency to withhold crucial information from

the families and to leave us out of the loop of what is going on in the accounting process.

One example—

Mr. DORNAN. Would you hold there one second, because I moved my eyes fast ahead in your statement and this set the scene for the erratic way we handled the end of the Vietnam War. Was your organization in existence in the fall of 1991, like that one document that Carol referred to was October 25, 1991; was your group in existence at the same level of activity then as it is now?

Ms. KNOX. No. It was not formed until 1993.

Mr. DORNAN. Was it formed partly because of the Senate committee or because of breaking news stories about North Korea?

Ms. Knox. It was formed by three daughters who through happenstance ran into each other and compared horror stories about the difficulty that they were having getting any information, the runaround that they were getting. They decided that an united voice would be better than individual voices. At that time because of the Senate select committee there was much more going on publicly about all of this.

Mr. Dornan. Could you take a time out right there? I want the Democratic staffers and Mr. Chapla and Mr. Pickett and my staff here and guests from the Pentagon liaison, looks like the rest are just families—the only press person I spied has left the room and all the Vietnamese families are well aware of what you are saying. That this DPMO office has to carefully pay attention to your words in this statement. We can't accomplish anything on Vietnam or Laos or Cambodia or the Dick Allen memo or anything Carol has brought forward until we analyze, the three daughters, grown adults come together and compare notes on what you call horror stories, and that all the secrecy involved here goes now through four decades, including another long, hot war and several mini wars. And no one has ever tried to really drive toward a resolution of this.

Here is a question. What was done at the select Senate committee on Korea? Keep in mind that I told you about Steve Keava coming and saying is this all there is. I think it was you, Donna, that said to me in my office months ago that we got one day on Korea in 45 years on the Senate side and never anything until we had that first hearing with you on this side. There were 2 days?

VOICE. One and one-half days. The national alliance, there are many of us—

Mr. DORNAN. It was 1½ days on the Senate side and you mentioned the Alliance of Families.

VOICE. We had a subgroup of the national alliance but then they left and we had many who were involved in the Korean war gone to Russia, China, and some that are gone, some of the families. Some of us have been active for a long, long time.

Mr. Dornan. But there has never been an effective day in the sun.

I have got to have some executive meetings with these people that keep in confidence—not to keep anything from you but to try and defuse this adversarial relationship that was developed with my friend Senator Bob Smith and has been developing with me now only because I am going for the truth and looking at mistakes

made. It has developed an "us against them" attitude, the us being DPMO and the them being anybody who happens to be asking questions. Kind of this new expression young people are using, "my way or the highway." It is the way we do it and that is the only way it is going to be done.

Was there anything that they were going to do at the end of the Senate select committee to resolve this? Any follow through—

Mrs. HRDLICKA. Promises, but they did nothing.

Mr. DORNAN. They would continue holding hearings in the Senate and then Philip Corso, who has brought forth some material, told me that if he had been General Sejna, Colonel Corso said to me that if I—this was just in passing at a dinner he said, I remember thinking at the time of the Senate hearing, they are abusing this man. That is his exact words. They are abusing this Czech general that defected to the United States, the highest officer defecting from any of the East Bloc countries we have ever had. I don't know if we have ever had a general officer defect from the Soviet Union. I don't think so. We have had high intelligence officers defect with even more valuable information that is still locked in the archives, the information. But he said they were trashing this man. I thought at the time—this is Corso speaking—if I were General Sejna, I would have gotten up and walked out. I neglected to ask who was treating him that way.

Here is a man who came forward to give information and he told me that when he initially came here August of 1968 there was rioting at the Democratic Convention, which we have seen reprised in film, and there was an invasion into Czechoslovakia of Soviet tanks called in by what Senator George McGovern called his favorite liberal Communist, Andropov. Reagan was repressive, according to then-Senator George McGovern, but Andropov was a liberal who listened to classical music and music from the West. Here comes a defecting two-star general from Czechoslovakia and he tells them about Third World battle plans and they say we are not interested. He tells them about a hospital in North Korea where they ran medical experiments on our young men, and they said not interested.

I have got to get to the bottom of that. And then to give truth to it, he still works for the DIA. But at that time they said, here is \$50,000, pretty substantial money in 1968, go up to Lake George, New York, and open up a golf course. He said, within months, I am not a businessman, all the money was gone, and I was going to be a street person. He was destitute.

I called the CIA and they referred me to DIA and he went on the payroll to do piddling things for them. Never was anyone interested except for his appearance before the Senate committee where, according to Philip Corso sitting at his side, he was trashed enough that he should have gotten up and walked out. We will pursue that.

I had the mistaken impression that your Korean association grew out of the Senate hearing but it more grew out of your comparing stories with other military daughters. Please proceed. I am following along in your statement here.

Ms. KNOX. One comment. To follow-up on one that you made was that General Clapper, attached to the memorandum about the hospitals, that said this was, these are my words, it was too hot to

pass even to Congress that information. It was passed to only two other individuals in the DOD, and the note was, we cannot let this get out. It will impede our ability to conduct foreign relations. And that is the theme that we believe underlies all of the reticence to convey information.

Mr. DORNAN. Even though he is a three-star head of the DIA I believe, and I am going to find General Clapper, he is now a civilian, and ask him what motivated him to put that down because that violates the law. We have an ongoing discussion as to what the President's responsibilities are before he launches \$55 million worth of cruise missiles at the wrong end of Iraq because the killing was going on in the north and they were launched in the south, without even informing the intelligence committees or Chairman Strom Thurman or Chairman Floyd Spence. We weren't even informed during the August break, let alone asked for the Congress to play a role and sign off on some of this. That jumped at me that a military officer, a general, would say we must not inform Congress on this.

That is another thing I have to get to the bottom of not only in the next couple of weeks but as either a Chairman or a Ranking Member of this committee in January as soon as we come back.

Pick up at your Joint Task Force Russia.

Ms. KNOX. The joint task force, of course, is charged with investigating the reports that Americans were taken to the Soviet Union during the Korean War. Recently the task force has completed a summary of its work and conclusions over the past 4 years. This is an official report. It has gone to the printer, been bound already, soon to be disclosed to Congress, to the Russians, to the media. It will be referenced and cited from its release forward.

In this report the task force closes the book on several MIA's. As General Wold said, it is the families who are the real experts on the individual MIA cases, and in preparing this work the task force did not consult with the family members nor with their files to even make sure that the facts upon which they were basing their conclusions, particularly with regard to the individuals whose cases they were writing off as conclusive evidence of death, they didn't consult with any of these people during the process or even before the report was finalized. Some of the information is inaccurate, it was made available to DPMO, was not passed along the channels and now we have an official report that is done and inaccurate in many cases. We have several family members who are up in arms.

I cite this example because it is just one of many that shows how the families are consistently treated as outsiders and excluded from information and conclusions that are drawn by the officials who are charged with this project.

Live-sighting reports come in, there are many numbers of them, and are immediately classified and the families are not told about them. Weeks, months, sometimes years go by and we are never told until they happen to leak out as some have in the past. When they do leak out, they are downplayed. We are told there are inconsistencies between these and previous ones; they are not firsthand, which has become a quoted buzzword. Or we are told that they are still checking into it, which buys them more time.

Time passes and we never hear anything else about these reports. We have no idea if an active investigation is being conducted or if the information is being buried because as some suggest it happens to present problems for ongoing foreign policy. We don't know what ongoing foreign policy is in this country with regard to the full accounting issue. We hear the lip service of highest national priority, but no plan has been put forward that we are aware of of what this government from President Clinton on down intends to do about the full accounting.

We do know that there is an overall picture emerging that there are live American POW's still in North Korea and probably elsewhere, although the recent evidence that we know about is not as voluminous as with regard to North Korea. We are forced to rely on assurances by DPMO that they are asking the right questions.

Over the weekend, The New York Times reported that a high ranking North Korean official who was a member of the secret police defected to South Korea and reported to U.S. intelligence officials in April that there are American POW's still alive in Korea. They were there as of 1993 when he was last there. He described elderly black and white Americans. He identified the location of the camp being just outside of Pyongyang. He described the camp. He had been there several times. He had seen the men. He had been told details of their lives and their plight by their guards.

This information is specific, it is credible, and it interfaces with other reports that have come in in the past. The families were told nothing about it. We had to learn about it through the news because it was leaked out unexpectedly.

DPMO is quick to discredit all of them, including this one. Alan Liotta, the man most involved with the live sightings, discounts any report that is not considered firsthand. He has made that clear to the families, to the media, and before this committee in June when he testified. He defines a firsthand report as one in which the source not only hears something about American POW's but they must have seen the Americans and they must have spoken with them enough to have it confirmed that they are American POW's and they want to go home. Any report that does not meet that test is not firsthand and is not credible in the eyes of DPMO.

These men are not over there on a tea party. They are prisoners of war 40 years later. The fact that they have not dared to approach someone, much less in this latest case a Secret Service man and said I am an American POW, I want to go home, should not prohibit the report from being considered credible and being pursued by DPMO and others in this government.

Mr. DORNAN. Have you ever heard the story of Bobby Garwood who did approach someone in the Hanoi hotel? I talked to him about this and as I recall that it was a person from Finland who was building a hotel in Hanoi. He gave them all the information and that person chose to not do anything about it, to not tell the press, and two more years went by before Bobby Garwood had a chance to slip another note to another person.

Two years is a long time. That doesn't mean that they haven't approached somebody and then been disillusioned, years go by and nothing happens. That would tend to depress someone to say it is hopeless, we are here until we die. Were you aware of that story?

Ms. KNOX. Only briefly, not in exquisite detail.

Mr. STARK. They gave it to the British and that is the reason they got out and not the Americans. The information was passed on to I think the British Broadcasting, the BBC, and not Americans. That is how it came out.

Mr. DORNAN. When it finally came out 2 years after the Finnish—

Mr. STARK. Yes. I would like to ask a question of the lady. How many people were involved in this sighting in 1993?

Ms. KNOX. One defector is the source. He came out through China and is now in South Korea.

Mr. DORNAN. Do you have the New York Times story with you?

Ms. KNOX. Yes.

Mr. DORNAN. Charlton Heston yesterday told me about this. I thought he had it confused with something, so I didn't press it. But this is one more hot developing thing. The New York Times on the trail cannot hurt. As a matter of fact, it will help.

Please continue.

Ms. KNOX. In terms of numbers, the source said that he never saw more than 20 to 30 at a time but there were always others in the dormitories, so that there were more than that number there, and he had been there over the course of years.

If the families are not told about these reports we are not able to apply pressure to make sure they are being investigated and acted upon. There are times when it feels like that is why we are not told about them, because then there will be some force applied to them. This is not curiosity on the part of the families.

We have been, and always will be, the driving force behind the accounting efforts. We need to know what the government knew back in the 1950's, what it has known since, and what it knows today about what happened to our men. Earlier this year after this defector report had come into the hands of U.S. officials, not to mention all the other reports in their hands, DPMO told us that there is no evidence of live Americans in North Korea. Not only did they have this defector's report in hand but also the internal memo that we heard so much about in June by Yin Sung Lee, one of their senior analysts who was assigned to the Korean war project, who had reported in March, I believe it was, that there is now too much evidence to any longer deny that there are Americans alive in North Korea.

Having that report in hand, all of the other live-sighting reports, and this one most recent North Korean defector's report in hand, they are telling the families that there is no evidence of anyone alive still in North Korea.

Mr. BENGE. Mr. Chairman, I have a previous appointment with my two daughters and I would like to ask you—

Mr. DORNAN. Are these adult daughters or daughters that were born after you came home?

Mr. BENGE. Yes, sir.

Mr. DORNAN. You get to them, Mr. Benge. My office will bring you up-to-date on what transpires.

I have saved for the anchorman one of my friends in the veterans groups of this country to see where we go from here with their muscle. Thank you.

Mr. BENGE. Who should I give this document to for the record?
 Mr. DORNAN. To Mr. Chapla.
 Please proceed, Donna.

Ms. KNOX. As I was saying, the families are not kept informed. We are not seeing any results all these years later. It is the 11th hour for any of our men who might still be alive out there. DPMO should not have the prerogative of unilaterally taking in these reports and other information and disregarding them and then burying them without disclosing them to the families and explaining their analysis and their conclusions. We need the opportunity to challenge them if we think it is appropriate.

Politics and bureaucracy abound in DPMO, as they do everywhere else in government, and the system when left to itself in the past has failed us, more importantly our missing men, miserably.

We need accountability. There are many people who are very well-informed who feel that high-placed individuals in this government do not want the news of live American POW's to come out because it would complicate the foreign policy. In an effort to reassure us, other well-connected individuals tell it is not so much intentional withholding as much as it is widespread incompetence throughout the system. Either way, we are not finding out what happened to our men. We have credible evidence that some of them all these years later are still alive, and nothing is being done. We file Freedom of Information requests consistently—

Mr. DORNAN. Mr. Gilman, before you go did you want to say—

Mr. GILMAN. I am appalled by this information. I have been talking with Chairman Dornan. We are both concerned and are going to try to do something about digging into this information very promptly. If you will forgive me, I have a bill on the floor. I am being called to the floor. Thank you for having this hearing.

Mr. STARK. I want to thank Mr. Gilman for being here, too. You have been with us for a long time.

Mr. DORNAN. I am just one of five subcommittee Chairmen. He has his own marshals. One of them is the Chairman of the Asian Pacific Affairs, the old Steve Solarz seat that kind of absorbed this portfolio for a long time from North Korea down to the tip of South Vietnam. He and I will get together and track this down.

Ms. KNOX. When we file our FOIA requests, and we word them as broadly as we possibly can, they are consistently denied in whole or might as well be in whole, we get them blacked out with one or two words coming back, such that you would think the U.S. Government was sleeping through the war and had gathered no intelligence data whatsoever.

We have tried repeatedly to get an executive order issued to mandate across-the-board declassification of appropriate documents pertaining to the Korean war, because 43 years later there doesn't seem to be any justification for maintaining across-the-board classification. Such an order exists for World War II, for Vietnam and for the cold war, but Korea has been eliminated or omitted from these orders.

We have been to the Department of Defense, to the State Department. We have met with Anthony Lake, the National Security Advisor, and Sander Christoff under him. None of them has an explanation to offer as to why the Korean war documents are still being

held and classified, and no one has come forward with any clarification. The order has not been forthcoming.

We need an executive order to mandate declassification specifically of these documents, or we would like an explanation as to why none is forthcoming as there has been for the other wars that surround the Korean war. It is not like it is brand-new and it is too soon.

DPMO is charged with helping the families to identify, to locate and to declassify documents pertaining to the whereabouts of our missing men. We have asked them about the thousands of documents that are housed in the repositories, not just here in the National Archives, but all over this country, all over the world. I have been told personally that they have only scratched the surface and that it will take them 10 years to get through the documents that they have to date and they have only scratched the surface.

Our guys are in their late sixties and early seventies, and they are going to mosey on through the mere tip of the iceberg for 10 years. This is just unconscionable.

Recently, 700 pages of relevant classified material was taken from the Eisenhower Library by DPMO. They assigned analysts to it, and two of the analysts have spoken to family members and said that they are frustrated because they are finding significant important information and it is being, quote, sat on, nothing is being done with it, it is being ignored. At the same time—

Mr. DORNAN. I asked for these documents this morning, and I hope they are going to be forthcoming. Some of the analysts who are most interested in pursuing this, an initiative like this, are being let go.

Go ahead.

Ms. KNOX. At the same time, these analysts were telling family members of the great fines and their frustration because it is not being acted upon. And I might add that this was probably putting their jobs at great risk, as you suggest. Alan Liotta management at DPMO, is telling the families that they have found nothing in the documents, nothing of significance—another example of how we are being misled and being kept from the crucial information. We need to eradicate the incompetence, and we need to attach the price to the willful, intentional withholding of information.

Now, from a legal standpoint, I wanted to address the sanctions. They are for the wrongful withholding. They will not be triggered by negligence or carelessness. They are criminal sanctions, not civil. That means they would be prosecuted by the Department of Justice. They would not be prosecuted by private litigants, most especially, for everyone's concerns, not by the family members.

These prosecutors would labor under the burden of "beyond a reasonable doubt." The burden of proof would be the highest burden of proof that is available in our justice system. They would require compelling evidence before they would even seek an indictment. All of these are safeguards against the prosecution of cases that do not have merit.

The amendment, as has been mentioned here previously, would only protect people who would willfully, wrongfully withhold information that should be disclosed. Congress voted to hold these people accountable last year, and they should be held accountable.

Senator McCain offered up as a rationale when he offered this amendment that DPMO would be debilitated by legal and investigative burden. Not if they do what they are supposed to. All they need do, like everyone else in the Government is supposed to do, is adopt the policy of disclosure rather than one of secrecy and insider information which is what exists today and has existed for the last 43 years.

If we all know what information is at hand, we all know what is being done about it, we all can work together and move toward our goal of a full accounting. It is not going to happen any other way. There has to be accountability. We need the criminal penalties.

One last thing on this particular measure. I understand that there is another hearing a week from now on the 17th at which DPMO official are going to be asked to testify. Our organization on behalf of the families have some specific questions we would like put to the members. We would like these questions to be answered with specific instead of the usual generalization and the lip service that we get so often.

We would like to know what actions they have been taking and plan to take with regard to the numerous live sightings. We have already touched on that. I think the Congressman—that you are going to pursue that.

We would like for them to testify on record what they have done and what they intend to do to track these down if these reports are true. We have got men out there and we want to get them back. We don't want to hear just vague assurances that they are asking the right questions and years follow years and nothing is done.

Mr. DORNAN. Take a short break, Donna, from my absorption. Are all the family members aware here that it is Mr. Armey, the Majority Leader, who controls the schedule more than does the Speaker as of the last few months? But with the Speaker giving him this power to set a hard date, in the Latin expression *sine die*, we are out of here, no more days.

He told me last week it is definitely going to be Friday, the 27th. That means we might go to midnight and spill over into the next day, but it would still be the same legislative day. That means 17 days and 12 spending bills, and there is no voting tonight; all the votes are being put off until tomorrow. That is almost one spending bill per day.

The word that you heard me say the Speaker sent to me today was, "Hang in there." That, I hope, means we are going to find some vehicle to put H.R. 4000 on keeping the criminal penalties there and all the other provisions until next year, when, if reasonable lawyers can get together, we will do some very fine fine-tuning, but representing the rhythms of this Hill that, when we adjourn, the President's powers are considerably enhanced to start wars—this is bipartisan—undeclared wars to go off on an adventure.

The bully pulpit which is considerably powerful anyway, of considerable importance anyway in power, it becomes the only pulpit because the Congressional pulpit bursts into 535 disparate pieces and disappears across the country, and the White House has the sole focus to itself, and former Senator Bob Dole, as a Presidential

candidate for the remaining 40 days before the election, 57 from tonight; then it is pretty much the executive branch and all the various bureaucracies; it is their show for October, November, December, January, and partly into February before anything is done.

So in response to your last paragraph, I tried to structure last week a private meeting to get some dialogue going, to stop the adversarial relationship and roll it back, and I want to maintain some of the privacies I promised I would this morning that I suggested would be kept private, and I would come over to the DPMO office as much as I could before I disappear to go back to be one of my tougher races.

And then I had this meeting today so I can carry your words forth to all my colleagues and Tom's words to come on the civilian provision, the 48 hours being moved to 10 days, the criminal penalties things.

Then on the 17th, a week from today, we have these people coming in, as you said, and yes, I will take carefully constructed questions on Korea, because this is the new issue. And you can see, Karen, you have a good lawyer here in Donna that has joined the cause.

I have to ask you, where did you meet the other two daughters?

Ms. KNOX. One of the family briefings in Washington a few years ago.

Mr. DORNAN. A family briefing that was supposed to make you feel good, and instead you traded horror stories and said, "What are we being told here of substance?"

You are a trained lawyer. Were the others trained in any professions?

Ms. KNOX. Pat, the president of our organization, is an accountant, and I don't know the professions of others.

Mr. DORNAN. Well, then, what we have to do is put them on notice. I will have to put them on notice by Friday that we want specificity, not generalizations, to use your words, that we want a course of action over the next 4 months when there is no oversight from Congress other than my contacting my office and doing it—what we can call committee hearings; I know I can do that during the break.

Congress used to go out in June and have very significant committee hearings all during the half a year remaining for most of the last century until recently. We will ask for, in the strongest terms, specificity and ask what they are going to do.

Mr. Liotta was not at the meeting today, and I do have some problems there with just the maturity and inexperience and feeling that there is going to be some follow-through. I can set up a deal where I have every fortnight at least a phone conversation every week.

General Wold was very gracious to me. He said, "Come over to DPMO." I would like to have a desk over there, to tell you the truth.

Ms. KNOX. So would I.

Mr. DORNAN. If I had a desk, it would be like you having a desk. I was sitting here pages earlier in your statement saying I would like to take Carol and Donna go visit DPMO and have a real heart-

to-heart talk with these people, as they assured me they are willing to do.

There is some frustration or naivete—I don't want to believe it is duplicitous—they don't know how all this ill feeling has been generated over the years. Those who are fairly new to it—2 years; I don't think it all that new—they can claim some disengagement from all the past.

But simply with this new evidence coming out or, as Mr. Gilman said, appalling story in the New York Times, and we have had appalling stories in the past that disappeared on live sightings.

Pick up your statement on page 6, because you are going to comment on each one of the provisions, if I like this, that are about to bite the dust and when President Clinton signs this. The truth is, if he refused to sign the conference report on the authorization bill until this was put back in place, can you imagine what the veterans groups would have to say or all the family groups would have to say?

Is anybody listening over there at the White House? This is a golden opportunity for him to become a Republican, a conservative, and become a champion of a group with the easiest of statements by saying, "I am not going to sign this until all of the seven provisions would be put back in." They would be put back in like that, Senator Strom Thurmond and Congressman Floyd Spence, just like that, if he just had a brief announcement, "I am not signing this with this stripped out." And he is an instant champion to other groups.

But proceed to walk me through these points.

Ms. KNOX. OK. I did want to pick up with the two other questions that we would like put to people over at DPMO, the second one being, we would like specifically when their plan is for locating and analyzing the documents that are around the world, the classified documents that we cannot get to even if we had the resources to fly to all of the different archives.

Ten years is wholly unacceptable. It is not even though as if they are saying they will have it all done in 10 years. We need it now. We have five personnel—actually, four and a half—assigned to Korea over at DPMO to go through all of these documents. That is why it is going to take 10 years.

General Wold—I was at the debriefing in Boston a few weeks ago, and he informed me they do not intend to increase their staff, they are not going to pull, as they shouldn't, from the Southeast Asia team that numbers about 35 to move over to Korea. They need those 35 there, fine. But they have got \$14 million a year coming in and they have got five guys or less assigned to going through all of these documents that we know exist that tell of the transfers and other fates of our men.

They are not staffing up. They are using reservists with no training whatsoever to go and pull these documents. We want to know their plan. They are just out there. They are not—they don't have a mastermind. The report—they have already been criticized for not having a master plan. They have not yet put one forward. They are just spinning their wheels over there, and we would like to force them to come up with a plan for how they intend to get these

documents, get through the information, then act upon it once they have gone through it.

Lastly, we would like to know what their specific plan is, what they have done to date, and what they intend to do to go up the line to the administration to enlist its cooperation and assistance on a foreign policy level on a full accounting issue.

These governments are not going to deal with DPMO about live Americans. In fact, DPMO has been told not to deal with them on that issue. It remains only as far as DPMO goes.

Better economic and diplomatic relations are fine, they are certainly part of the picture, but that is not going to bring about a full accounting. These governments are not going to just hand us over information and our live guys out of the goodness of their hearts. It doesn't appear that they have goodness in their hearts. There has to be a well conceived and well executed plan to force them to come up with this information.

If there are men still alive, they are there because, as we know the communists do, they have held them as bargaining chips if and when they are needed in the negotiation process.

As far as North Korea is concerned, we are still at war. We had a 30-day armistice that expired 43 years ago and there has been no peace treaty. They are holding our guys, waiting for that, if for no other reason.

We want to know what is going to be done from the President on down to its agents in DPMO. And if DPMO cannot tell you, that in itself shows you the problem that we are facing.

Mr. DORNAN. Donna, please use your own words about who is missing. It is not Bill Clinton's father. This resonates, I think.

Ms. KNOX. I was going to explain, whatever the plan is, it needs to include us in it, because it is not Bill Clinton's father, it is not William Perry, the Secretary of Defense's father, nor is it Alan Liotta's father that is missing. It is my father and others like me.

We want to know what information is known about our fathers and what is going to be done about that information before they would necessarily have to be dead of old age. And if it takes criminal penalties to create an atmosphere of openness and disclosure, let us have the strength and resolve to put them in place, because these missing men deserve that at the very least.

Mr. DORNAN. Let me bring you up to date on something I am just learning, because I fought to expand this office many times over to the size it is about now. There are nine people there now. I thought one was assigned to the future, search and rescue, Scott O'Grady case. I find it is one with two people just given to him. Since I asked the question, that comes out of other duties, hopefully not out of the four and shared person—four and a half—for you.

There are 9 slots—100 slots. There are only 9 people there, so they have 11 empty slots. I find out this morning that some of the reservists that are being let go are—well, I found out that it is because one of them they felt was a whistle blower to me, and there is some truth in that. I will probably—he doesn't have to be subpoenaed. Some of them want to testify.

Let me correct you on one thing. Not all the reservists are inexperienced. Some of them are excellent analysts, better than some people they have had there for decades, because several of the ana-

lysts have what I have always asked for, a Sherlock Holmes, New York police detective mentality at looking at circumstantial evidence.

You are a lawyer, so you know you can't dismiss everything in the investigation phase as that will be hearsay in court, that will be hearsay; I am not going to look here; that won't be fruitful. You accumulate your case when you are in the investigative phase and bring in as much information as you possibly can.

There are retired people all over this country with superb analytical skills and background that could be instantly put on active duty and put in there. They could hire 11 people tomorrow and swell that $4\frac{1}{2}$ up to $20\frac{1}{2}$ — $15\frac{1}{2}$ people and have them reservists with experience or analysts who are very vigorous and healthy and jog, who are in their late sixties, early seventies, who are contemporary people who were in intelligence in the Korean period. They could be in there ready to go in 2 months to start going over these documents.

We are going to discuss that at a hearing on the 17th and maybe, somehow or other, find time to have one more follow-up hearing after that. But if I have cost people their jobs, they are not upset about it. So, so be it, if it breaks this deadlock that you so eloquently write and speak about in the last few pages.

Let's go through point by point what you have in your concluding pages here.

Ms. KNOX. With regard to the forensic evidence provision—

Mr. DORNAN. Could you summarize these and get to the meat in each one of the paragraphs?

Ms. KNOX. In fact, I was not even going to touch on the three that don't pertain to the Korean war, the provisions having to do with the civilians, 48 hours and 3-year review, because I felt they had been touched on already.

Mr. DORNAN. The forensic evidence you feel is an important one.

Ms. KNOX. Then that is important for us as well. We have already seen that hasty identifications of the relatively few remains that have come back from Vietnam have resulted in error. Mothers who waited 25 years to find out about their sons, they thought they had them, they buried them, had to dig them up and turn them over for further testing. Mistakes have been discovered. We owe it to these people who wait this long to find out about their loved ones to make sure, when we are saying, "This is your son," that it is, in fact, their son.

We have too many competing political and bureaucratic and economic factors at work in this to just assume or to hope that the identifications will necessarily be correct. We now have technological capabilities and mitochondrial DNA testing to get it right. We should use these capabilities and make sure, before we declare someone dead and close the book on his case, that we have the right body and the man is, in fact, dead.

Mr. DORNAN. And the 3-year review? Your brief comments on that.

Ms. KNOX. My comment on that is that we have learned the hard way how easily our Government writes off the men. It is appalling but true that the Korean war MIA's were never listed. Still to this day, we have been promised for a couple of years now. They get to-

gether a list of the men who are actually missing from Korea, but no comprehensive list is put together, no files on these men were ever put together. The intelligence, as I mentioned, was not gathered. There was no plan, no effort to find them.

The amendment offered by Senator McCain would cut off review after 1 year's time, whereas the act now provides for every 3 years for 30 years.

We feel that situations like these take years. We have seen that in the Vietnam and Korean war situation. If somebody is out there just on a lark, he can wander in in a year's time. If he is held by the enemy, a year is not enough. Sometimes it takes governments falling before information comes or changes in administration.

If no information comes along, then the review is going to be easy every 3 years, but at least there will be a process in place by which the information is forced to be gathered and analyzed and compared, and we might along the way happen to discover something that would lead to the accounting of an individual or possibly save someone's life because we discover what happened to him and go to the government with this smoking gun and get the guy back.

Mr. DORNAN. Well said, and you appreciated the civilian testimony. I think if every Congressman and woman could have heard the testimony this morning from Mr. Packard, Mr. Stark still with us, there wouldn't be any problem on that if we had to rifle shot—I don't know who would dare go to the Floor and vote against that.

Ms. KNOX. One point I want to make that hasn't been made here: If you look at Senator McCain's explanation sheet, the reason for excluding the civilians is because the State Department is conducting a 1-year study into how to best protect these people. We all know how that will go. The 1 year is going to turn into year after year after year. Legislation may or may not come about. We say leave them in this act, and if you get different legislation, then repeal that provision, but not before.

Mr. DORNAN. If the Senate has something—I mean if the State Department comes up with something equal or superior, then it is written into law. And Mr. Gilman is my friend; he takes over with foreign affairs, thus the State Department authorization, and that is done, and it is better.

Your conclusion begins that the amendment offered in the Senate—which, by the way, passed late at night or middle of the night, 8 o'clock in the evening, by a voice vote. Nobody wanted to challenge somebody with POW experience, and you say it resounds in pro-government themes. Take it from there.

Ms. KNOX. Those themes are: Remove accountability, reduce the size of the project, and minimize the obligation. Nowhere in these themes will we see any concern for the missing men, and someday the missing women, who have gone on the line for this country. We have to consider the time and the money and the effort that is put forth on behalf of all sorts of other issues, most of which happen to be political hot beds at the time, and it would seem that our missing men and women who have gone out there and risked and lost everything for our lives and our liberty and for the lives and liberty of people they don't even know should be deserving of equal resources to all of these other political issues.

These are not just names on pages of paper. They are fathers and brothers and sons of thousands of Americans who are still waiting to find out what happened to them. It is important to remember that we have no reports of their deaths, we have no evidence of their deaths, but what we do have is evidence that many Americans in both the Korean and the Vietnam War and the cold war as well were taken alive and were not returned when the war—when all of the wars were over.

And then just to wrap it up, I want to say that everyone here has said gutting this act is a travesty, and to the extent that it is based on economic considerations, it is extremely hypocritical in the face of all of the Government waste and the political spending we see regularly up here.

We owe it to these men to find out what happened to them, and H.R. 4000 is the best thing I have seen so far that will do justice, or at least attempt to, with these men.

Mr. DORNAN. Thank you very much, and the Nation would have been well served in the late fifties, when I was on active duty, if we had honorably taken the cases to the world. And you heard me say earlier Colonel Philip Corso, a National Security Adviser whose principal duty was prisoners missing and missing from Korea, that he asked President Eisenhower's permission to put it in Henry Cabot Lodge's speech, and Lodge did that on the Floor of the United Nations, and the press, quote, inexplicably ignored it.

All this time I was on active duty in my early twenties with a fascination for escape and survival because God makes such peculiar calls on who survives and who doesn't these terrible situations.

[The prepared statement of Ms. Knox follows:]

Statement of Donna Downes Knox
Korean/Cold War Family Association of the Missing
Legal counsel; member of the Board of Directors

September 10, 1996

The men who are missing from the Korean War have been gone for over 40 years. Their families were told when they went missing that the US Government would pursue all available leads, and that we would be kept informed of all information that our government had about the whereabouts or fate of our men. We now know that the government did not even try to find them. It simply wrote them off for dead, changed their status to Killed In Action, and moved on through the post-war years.

I have searched long and hard for information about my father. I know many others who also have searched. We were all told that there was no information. The truth was that there was a great deal of information, including hundreds of intelligence reports, but no one was charged with gathering it and analyzing it to find out what happened to these men. There was no post-war investigation. There was no system in place with which to even begin. There was never an intention of producing an accounting.

After decades in which the government essentially did nothing to try to find or account for our MIAs, The Missing Service Personnel Act was passed. It is the first law that could make a difference. It provides for certain policies and procedures that will protect the missing person and enhance the likelihood that he or she will be repatriated.

We have not yet even had a chance to work within the law's framework and already it has been gutted of many of its significant provisions. Some of the provisions do not directly affect existing MIAs, but as part of the POW/MIA Community, our organization recognizes their value and supports their reinstatement.

I would like to address the provisions individually. They speak to different needs of our missing men and (someday) women.

Korean War KIA/BNR Cases:

There has been some confusion as to what provisions of the Act were ultimately amended. Section 1509(b) provides for further review of individual Korean War MIA cases where new information is discovered that could change the status of the individual. My understanding is that this section was originally targeted for repeal, but that ultimately it was left in tact.

Instead, it appears, § 1509(c) has been eliminated. This section, in the existing law, gives authority to review cases of men

classified as KIA/BNR, if compelling new information is discovered that could change the status of the man's case.

As a threshold matter, it is disconcerting, to say the least, that anyone in our government would want to eliminate the opportunity for review of a case in which compelling new information was discovered that the man had not been killed. Is the apathy that blatant?

Additionally, please be reminded that, after the Korean War the U.S. government changed all of the MIAs' status to KIA/BNR, not because there was any information that the men had died, but because it cost less to pay death benefits than it did to carry them in a missing status. We are very concerned that elimination of the provision for review of KIA/BNR cases is a back-door attempt to eliminate the opportunity for review of any Korean War cases.

This is particularly inappropriate now when relations with North Korea are opening up for the first time, and where numerous Live Sighting Reports are being received that some of our men are still alive in North Korea.

It defies not only common sense, but common decency, to specifically legislate these men out of the opportunity for review just as a window of opportunity appears to be opening for them. The standard for review is high in the existing law...the new information must be compelling. There can be no legitimate rationale for removing this provision. The only motive could be a desire to bury these cases.

If the review for KIA/BNR cases from Korea is eliminated, you run the risk of creating a confusing loophole in the law, through which the other retroactive provisions will be neutralized.

Criminal Penalties:

The Missing Persons Act currently provides for criminal penalties for the intentional, willful withholding of information from an MIA's file. The amendment removes this provision from the Act.

Government officials have been withholding crucial information from the families of the MIAs since President Eisenhower, unbeknownst to us, wrote off for dead POWs that, according to intelligence reports, had been taken from North Korea to China and the former Soviet Union during the Korean War. This exclusion from information about our men has continued until this very year. Whatever the agenda, it most certainly has not been rooted in the best interests of the missing men. Politics and bureaucracy far too often dictate the course of action.

We now have a POW/MIA office and, undoubtedly, some in that office are dedicated to its purpose. But the problems that we face in

seeing any real progress still are many. The office has had millions of dollars and several years. Individual cases have not been solved. Questions about American POWs in general having been held back have not been answered, and there is an apparent unwillingness to give us information and to include us in the "loop".

The Joint Task Force Russia, which is charged with investigating the question of American POWs being held in the former Soviet Union, recently completed a summary of its work and conclusions during the last 4 years. In some instances the report essentially closes the book on individual MIAs, and neither the families, nor their files, were consulted before such a posture was adopted. In some cases, the Report is based on inaccurate information that could have been corrected if the families had been kept informed.

General Wold has stated that the families are the real experts on the cases, and that DPMO can never hope to know as much about the MIAs as the families do. And yet the families are consistently treated as "outsiders" and are often the last to know of information that is learned, or conclusions that are drawn.

Live Sighting Reports come to DPMO and they are immediately classified, so the families are not told about them. Weeks, months, even years go by and still we are not told about them. When the reports leak out, those that have, we ask why they had not been disclosed. Inevitably, the reports are played down by DPMO: either there were inconsistencies with other related reports; or the report was not first-hand; or DPMO is still checking into the matter. Time will pass, and we do not hear anything else about it.

We have no idea whether an active investigation is being conducted or whether the information is being "buried" because it might interfere with foreign policy. We don't even know what the foreign policy is on this matter, or if one exists. We do know that an overall picture is emerging that American POWs are still in North Korea, and we see nothing more than belated assurances that the North Koreans are being asked about it.

Over the weekend the New York Times reported that a high ranking North Korean defector, a member of the secret police, told U.S. intelligence officials early in the spring that elderly black and white American POWs were still alive in North Korea as late as 1993. The families were told nothing of this report. The defector identified the location of the prison; he described it; he had been there many times; he had seen the men; he had been told details of their lives by prison guards. This information is very specific and it interfaces with past reports.

DPMO is very quick to discredit the reports. Alan Liotta, the man most involved in these matters at DPMO, discounts any live sighting report that is not "first-hand". He has done so to the families;

to the media. He has done so in testimony at a previous congressional hearing such as this one. Mr. Liotta defines a first hand report as one in which the source not only saw the Americans, but spoke to them enough to confirm that they are POWs and want to come home.

Therefore, in the case of this latest report, because the prisoners who the North Korean defector saw did not dare to tell him...a man who was then a member of the secret police...that they are POWs and want to come home, this report is not considered first-hand and has been discounted accordingly.

If the families are not told about these reports, we are not able to apply pressure to make sure that leads are being pursued. This is not just fanatic curiosity for us. The families have been, and always will be, the driving force behind the accounting effort. We need to know what the government knew then, and what it knows now about what happened to our men.

Earlier this year, after U.S. officials had received the report from the North Korean defector, DPMO told families that there is no evidence of any Americans still alive in North Korea. At the same time, a DPMO analyst on Korean War MIAs was reporting internally that there is too much evidence to deny that some Americans are still there. The report was leaked out and DPMO played down its significance and attempted to discredit the live sighting reports upon which it was based.

We are not kept informed and we have seen no results. It should not be DPMO's prerogative to unilaterally discount or disregard information about our missing men without at least disclosing the information and explaining the analysis and conclusions. Politics and bureaucracy abound in that office.. as they do everywhere else in the government. There is no accountability, and there needs to be.

More than a few people who are well-informed on this matter believe that our own government does not want news of live American POWs to get out for fear that such developments would complicate foreign policy. This fear of suppressed or withheld information is not based on paranoia. It is based on past policy and on current events.

Still others, who are strategically placed within the system, assure us that there is no intentional withholding of information, rather that a pervasive level of incompetence.

Whether through cover-up or incompetence, we still do not know what happened to our men and we do not know whether some are still alive waiting to be rescued 43 years after the war.

Our FOIA requests for information pertaining to even the broadest

of inquiries are routinely denied, as though the United States was sleeping through the war and collected no intelligence whatsoever. We cannot get an executive order to declassify Korean War documents, even though such orders have been issued as to documents from WWII, the Vietnam War and the Cold War.

DPMO is charged with helping the families identify and locate relevant documents. We ask about the thousands of documents stored in the myriad repositories around the world, and we are told that it will take ten years for them to go through the relatively few pages that they have gathered to date. Meanwhile, we have no way of knowing what they have found, and no way of getting at the information ourselves.

Recently about 700 pages of relevant classified material was recovered from the Eisenhower Library. Two different DPMO analysts working on the project spoke to family members of frustration that they feel because "significant information" that they have found in these documents is being ignored. Nothing is being done with it. At the same time, management at DPMO reported to family members that nothing of significance had been found in the documents. The analysts who actually went through the documents did not seem to agree.

Time is passing. We have to deal with the incompetence, and we have to attach a price to the wrongful withholding of what should be disclosed.

The sanctions in the Act are for wrongful withholding. They are not triggered by mere negligence or carelessness. The sanctions are criminal, not civil. That means the Department of Justice, not private litigants, would have to prosecute a case. The prosecutors would bear a burden of proof of Beyond a Reasonable Doubt, and they most certainly would require compelling evidence before they would seek an indictment. These are all safeguards against prosecution of claims that have no merit.

The amendment to the Act protects only people who would wrongfully withhold information that should be disclosed. These people should not be protected. Last year Congress voted to hold government officials accountable on this matter. It is serious, and in the past it has not been handled properly.

DPMO will not be "debilitated by a legal and investigative burden", as Senator McCain claimed when he offered his amendment. DPMO, and all other government officials, will simply have to adopt a policy of disclosure, rather than one of secrecy and insider information. That way, we will all know the level of information at hand. We will all know what's being done about it. We can work together more effectively. Accountability is the only incentive that will get the job done.

Another hearing is scheduled for September 17th at which members of DPMO will be asked to answer questions. We would like you to ask them specifically what they are doing about the various live sighting reports; what they are doing about identifying, locating, and declassifying relevant documents; and what they are doing to get the administration's assistance in dealing with North Korea, China and Russia to bring about a full accounting. Improved economic and diplomatic relations are fine. But there has to be a well-conceived and well-executed plan for compelling disclosure by these other governments of information that they will not enjoy exposing.

Who has the plan, and what is it? We have been asking for years, and we still don't know. We need a law that makes government officials include us as a partner in this effort. It is not Bill Clinton's father that is missing; or William Perry's; or Al Liotta's. My father is missing, and I want to know what information exists, and what is being done about it. If it takes criminal penalties to bring about a policy of openness on this issue, then let us have the strength and commitment to put them in place. The missing men deserve that and much more.

Forensic Evidence

The Act currently provides that a set of remains that is not visually identifiable cannot be associated with an individual MIA unless an appropriate forensic scientist certifies the association. The amendment removes this safeguard against mistake or intentional misidentification.

Already, with relatively few remains having been returned from Vietnam, hasty and incomplete identifications have led to costly mistakes. Mothers who thought they had buried their sons have had to dig them up again for more testing. When someone has waited 25 or 45 years to find out what happened to their loved one, we owe it to them to get it right. More importantly, we should not be declaring someone dead and closing their case unless we know we have the right set of remains.

There are too many competing political, economic, and bureaucratic factors at work in this matter to assume, or hope, that something as important as identification of a set of remains will be done correctly. We have technological capabilities today that we have not had in the past. We should use them and make sure that when we declare a man dead, he is, in fact, dead.

48 Hours Report

The Act currently provides that a missing person's direct commander must make a recommendation of missing status within 48 hours of the time the individual goes missing.

McCain's amendment lengthened that time to 10 days, purportedly because the commander's "don't have time" to be distracted by such matters during combat. Are the individual men so expendable that their commanders should not be bothered even to report them missing? The trail stays warm for only a short while. If no report even is filed for 10 days, and no investigation or search and rescue efforts are initiated, we are essentially throwing the individuals to the wolves.

The difference between 48 hours and 10 days is a lifetime to a person in enemy territory waiting to be rescued.

McCain's amendment will have no one looking for a missing person for at least ten days, probably more, and his or her chances of making it back will become nil. If the men and women in today's military knew how little they as individuals mean to their government, many of them probably would never agree to serve.

President Clinton made a big show of saying "We take care of our own" when the military base was bombed in Saudi Arabia. Men lost in combat are "our own", and we are not taking care of them if we let them linger in peril for ten days until their commander gets around to reporting them missing and seeing what can be done about it.

3 year Reviews

We have seen how easily this government will write off its missing men. For Korean War MIAs no case files were developed; no comprehensive list of the men who are missing was compiled; intelligence documents that told the story of what happened to many of them were not collected, reviewed or analyzed. There was no plan and no effort to find the MIAs.

The Missing Persons Act compels periodic review beyond the initial 1 year period. The amendment removes this provision. One year is perhaps enough time for a person to wander back in the door if he is able. However, chances are, if a missing individual is still alive, he's being held by an enemy and our government will have to discover what became of him and work to get him out.

Information comes to light in different ways at different times. Governments change. These situations can, and do, go on for years. If there is no new information every three years, the review process will be easy. At least there will be a process in place whereby information is being gathered, reviewed, and compared to other information. If new leads can be developed based on the review, this should be perceived as a Godsend, not a burden.

This government claims to be committed to finding out what happened to these individuals. True commitment does not evaporate after one

year. We send millions of dollars in aid to other countries. Surely we can find it in the budget for a periodic review of the cases of our missing service personnel, in hopes that we might uncover new information about what happened to them, and perhaps even bring some of them back alive.

Civilians

The amendment will deny protection of the Missing Persons Act to civilians who are lost while attached to a military unit, subject to orders. We see no logical reason for removing such individuals from the purview of the Act. They are Americans serving their country. They need and deserve the protection no less than anyone else.

The explanation for this change is that the State Department is conducting a one year study into how best to protect these individuals. We all know how that will go. The one year will stretch into several. Eventual protection might or might not become a reality.

The better wisdom would seem to be to cover civilians with this Act and remove them if and when there is comparable protection available in different legislation.

Conclusion

The amendment offered in the Senate this year resounds in pro-government themes: remove accountability; reduce the size of the project; minimize the obligation. Nowhere in this is there concern for the missing men and women. These themes might sound attractive in a vacuum, but when you consider the enormous amount of time, effort and money that is spent on countless other items that happen to be more politically rewarding, one must ask: Are not this nation's missing men and women who have gone into battle to protect the lives and liberty of others equally deserving of the resources?

These are not just names on a page. They are individual Americans who put themselves in harm's way when their country called. They are the fathers, brothers, and sons of thousands of Americans who still wait to learn of their fate. There has been no report of their deaths, nor any evidence of their deaths. There is evidence that many Americans were taken alive and not returned. Until we resolve the question of what happened to these men we will not have repaid our debt to them.

Gutting the Missing Person's Act is a tremendous step backwards. House Bill 4000 will do a great service to our missing service personnel by reinstating the provisions that have been removed.

Mr. DORNAN. Tom Burch, president, the National Vietnam Veterans Coalition, you, like me, I know always are learning, and you have got a wealth of knowledge here again today, and it didn't sway you from any of your prior positions.

But since you wear two hats and you are active in the Dole campaign, let me tell you that, as my friend John McCain surprised me when he said to me in his office—and he was very gracious to come to my office—“Try to work something out on this.” In the end he dug in his heels and got it all—got at least what he wanted, taking out seven of these provisions. He waved his hand and said, “Bob Dole doesn't care about any of this.” I went, “What?” John Chapla was with us. My colleague, Duncan Hunter, was there. “Bob Dole doesn't care about any of this.” I said, “We are in a tough period here.” This is the Dole-Gilman-Lautenberg thing. I am just the quarterback here trying make the touchdown with this last year and trying not to have it gutted this year, without saying anything about my pal, John McCain.

Can I ask you before you read your statement, does Bob Dole care about this?

STATEMENT OF J. THOMAS BURCH, JR., PRESIDENT, NATIONAL VIETNAM VETERANS COALITION

Mr. BURCH. Bob Dole does care about this. I personally talked to Bob Dole about the bill, and we lined him up originally to be the sponsor on this bill. He does care. He wants this bill passed, and, as a matter of fact, last November when there were some Senate mechanizations going on, at that time we got Senator Dole personally and asked Senator Thurmond and Senator Coats. He went and talked to him on the floor about making sure this piece of legislation passed as is intact. That is when we have a lot of momentum.

What we had was kind of a backdoor action, I think you mentioned, where really the principals were not involved. Some staffers got involved on the Senate side to gut this bill that was in the Appropriations Act and in the name of some Senators where the Senators were not really involved.

Bob Dole has not changed his commitment on this bill. He wants this bill. The veterans want this bill. His campaign wants this bill. I have been meeting with his staff to continue to make it clear on the Senate side that Senator Dole favors this bill.

One of the things we are going to have to do with this coalition is, after you finish your action here in the House of Representatives, we have got to put more pressure and more juice on the Senate side to make sure they don't delete these provisions once you get it back over there for us.

Mr. DORNAN. In San Diego you put on a wonderful veterans reception and presentation for Bob Dole. It was at the Golden Hall, which means the Golden State. On the stage you had some friends of mine from this horrible period, one of the two Medal of Honor winners out of the three in the air—in North Vietnam. The other Medal of Honor winner was for escape and evasion and died, Lance Sijan. You had two of the Medal of Honor winners there, James Von Stockdale, Admiral, and Leo Thorsness, Air Force officer, and I went down the line and said hello to them.

As Bob Dole walked down the line and got to me on the end of the line, it was an honor to be up there with all of these warriors. He said, "How is the POW bill going, Bob?" It sure indicated to me he was on top of it and knew we were having a fight here.

Mr. BURCH. We had a meeting the night before that conference. I had a major meeting with the top staff. I am not talking about lower echelon people, I am talking about people who are running his campaign. I told them with the Vietnam veterans constituency and the grassroots movement this was the most important piece of legislation out there. It was a "must pass" piece of legislation because our people were looking to him and the Republican Party leadership, even though it is a bipartisan bill, to get that through and it would be just no way that our constituents would understand that everything was not being done to pass this legislation.

I have been working on this legislation for a number of years with Top Holland, and what I have found out is that all the trouble, all the opposition, goes back to the Defense Intelligence Agency.

I have met with all kinds of people in the Pentagon trying to get a resolution. This could have been done by regulations. It didn't require legislation.

In 1994, we had a major meeting with Under Secretary of Defense Dorn about this, and he sat there with the people, and the only reasonable reason he had for opposition, he said, "The DIA opposes what you want to do." You can't make any compromises. It was every effort we had to try to get a bill that the administration could back. It was just totally stonewalled. The only way it is ever going to happen is through the leadership of our Congress.

I want to tell you, Congressman Dornan, we have so many friends who are out there and really fight for us. But let me tell you, the veterans community really appreciates the hard fight of you and your committee and Congressman Gilman. I see Mr. Pickett from Virginia, my brother's Congressman.

I really appreciate you sitting through these long hours to hear the testimony to get firsthand knowledge, because this is a travesty and this is one of our legacies from the war, that we have got to get this system reformed so that they can't rubber stamp these men dead any more. It is unfair to the families. It is not keeping the commitment to the military serviceman.

Our coalition of 79 groups, 350,000 men, are unequivocally, totally committed to passage of H.R. 4000, the POW/MIA Protection Act. We congratulate you for putting this forth, moving it decisively. It is determination and persistence that is going to reform this system. We cannot let this continue to happen.

We are behind this bill. We are going to use all of our resources in lobbying and membership and phone calls. We also are not only going to work hard here but we are now in an endorsement process, and our organization, National Vietnam Veterans Coalition, endorses candidates. We are a (c)(4) organization; we endorse.

On the Senate side, every Senator who is going to be endorsed is going to have to build back this piece of legislation to get this endorsement. We have 15 of them we are going to meet with over there. They have got to come through with this original legislation and not let it be gutted a second time when it goes up there.

If I could take a moment, though, we would like to address some very specific provisions of the bill.

Mr. DORNAN. If you have a statement before I ask Mr. Pickett to ask questions of anybody on the panel. If you have a statement you want put in the record, it is done. If you want to summarize it, please go ahead, and when you are through, I will open it up to Mr. Pickett for any questions.

Mr. BURCH. I would like to have my entire statement entered into the record.

In shortage of time, I think I will cover some of the specific provisions of the legislation and why we think they should be enacted. You have section 1505 for missing persons last known or suspected of being alive. A broader review will be reconvened every 3 years after the initial disappearance.

The so-called discrepancy cases are the cutting edge of the overall issue since they involve the most important cases, literally a matter of life or death. Some of these individuals may still be alive. New information surfaces on the cases. These cases are too important to be casually explained away. Convening frequently in hearings, as contemplated by this section, ensures that the focus will be kept on these cases and that they will receive the attention they deserve.

I want to mention, one of the problems we have here is that the Department of Defense here—and later we will talk about, we will get a tooth back, they will bury that tooth, they bury that person literally in the bureaucracy; then later on, very credible firsthand reports come forward that this man is still alive. Even the people they polygraph say these are falsifications because we already put the tooth in there. Being able to have these reviews, you can get some credible information. It is very important to keep that mind set from taking—to not put aside very valuable information that people have been alive when they might have been in error in an earlier bureaucratic mistake.

Mr. DORNAN. Excuse me one second. The legislative liaison people, not DPMO, but for the Defense Department were in here earlier.

Is anybody left from LL?

That is too bad, because I wish they had heard all of your statement, Donna, and I wish they had heard Tom.

Is anybody here from the Pentagon at all?

Mr. BURCH. Congressman, they just want to stonewall. We have been here for 10 years, and they want to kill this any way they can. They don't want to have something that is workable. They want to kill it. That is why we have to take the action our way. That is why we need the action of this committee.

Moving on, section 106(3), this penalizes any government official who knowingly and willfully withholds information related to the disappearance, whereabouts, or any status of a missing person from his case file.

You know, I might just mention, this word "willfully" is important. I am an attorney too. That is going to be a very strong standard. That is not just because somebody inadvertently does something. This is going to be deliberate acts that, frankly, we have gotten some evidence from what Carol Hrdlicka was talking about.

The sad part of all of this is, too many POW/MIA families have been lied to by their families. In the past 2 years, this subcommittee has heard a procession of family member witnesses testify through their experience as being misled, being misrepresented to, having information suppressed, being victimized by changing official stories or gross investigatory negligence, et cetera. These witnesses, we can assure you from our own knowledge, are only the tip of the iceberg.

Government officials practiced these cruel discussions for 20, 30 years. It is a safe course of kind of action because there are no reprisals. The proposed amendment would force officials to suffer the consequences for the continuation of such activities.

There should be no objection to the proposal. It is not unreasonable to expect that men and women entrusted with dealing with bereaved families should tell the truth.

I would like to tell a little anecdote. One of these officials that is in the DIA, who is one of these people that has been one the worst characters in sitting and lying to families. I had my first contact with that gentleman in 1983 where I thought our Department of Defense would want to resolve the issue.

I remember having a meeting over in the Pentagon where I was telling him I was getting involved in the issue. He said, "You don't want to be involved in that issue. You want to be involved in other things." I said, "What do you mean, I don't want to be involved?" He said, "Things happen to people who get involved in this issue." I will never forget that the rest of my life. That is what these family members are doing. And a person like that should not be in a position. He is one of the people who has been in that position year after year after year.

Section 1507 prevents missing persons from being declared dead without credible proof or requires that if a body is recovered and is not identifiable through visible means, a certification by a practitioner of an appropriate forensic science that the body recovered is the missing person.

The history of the POW/MIA issue demonstrates that the Government has been all too eager to rack up a body count of resolved cases. We have witnessed the paradox of the official mind set that all but automatically rejects any evidence of live prisoners of war in Southeast Asia, that simultaneously resorts to elaborate flimsy proofs that many classified as discrepancy cases have died.

Further, during the war mistakes were made in classifying missing service personnel. Nonservicemen were declared dead but were later repatriated as POW's, according to Government testimony before Congress in early 1970's. One of these nine POW's had been purportedly buried in a cemetery in St. Louis 5 years before we came home.

I have also just mentioned a case of a Master Sergeant Sabog who has recently appeared but earlier in the year—as a matter of fact, in April 1995 the Pentagon informed his family that the remains, including teeth, had been turned over to the Government by the Vietnamese Government. This is the same thing. We don't want to have this type of loose information that cannot be challenged burying a man.

With the advances in the last decade in forensic science, most notably DNA testing, it has become far less onerous to require forensic determinations. Once a person is declared dead, all live sighting reports that the person remains alive are dismissed or out of hand. Before we write these reports off, we need to be certain.

Section 1513(b) permits civilian Defense Department employees who serve with or accompany their armed forces in the field under orders or become missing as a result of hostile action being covered by the act. I think the eloquent comments by Larry Stark and Michael Benge, who I have know for many years, have said it all. I think we definitely think they should be included.

My organization of over 350,000 members highly supports and endorses H.R. 4000, the POW/MIA Protection Act. We thank you, Congressman Dornan, your committee, and the 254 cosponsors for moving on this legislation.

I am working very closely with the American Legion on this piece of legislation. We are going to use all our resources to get it passed, notwithstanding the closing of the session. We appreciate your determination to keep this act and not let it be buried. We need the full impact of this language. Unfortunately, if we don't have the strong language we need here, we won't have the reform you need.

Also. I want to commend your staff, particularly Al Santoli, and the way he has worked with us in order to have a coordinated approached to pass this legislation.

[The prepared statement of Mr. Burch follows:]

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TESTIMONY RE H.R. 4000
before the Military Personnel
Subcommittee National Security Committee

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Chairman

National Vietnam Veterans Coalition, Inc.

Date: September 10, 1996

Mr. Chairman, we thank you for the opportunity to testify before this Subcommittee today on a matter of great concern to many Vietnam veterans. The National Vietnam Veterans Coalition is a federation of 79 Vietnam veterans and veterans issue organizations. The estimated combined underlying membership of these organizations is 350,000. A consensus has developed between these organizations that reform of the Missing Service Personnel Act merits the highest priority objective of our Coalition.

The desired revisions to the law were already passed by Congress and signed into law. Unfortunately, several of these revisions were undercut by new pending legislation. H.R. 4000, the POW/MIA Protection Act, would re-set the balance and restore what Congress has already mandated.

Each of the sections of H.R. 4000 contains desirable elements. However, I would like to discuss some of the more crucial elements. They are:

Section 1505. For missing persons last known or suspected of being alive, a board of review will be convened every three years after the initial disappearance.

As I will note elsewhere in this testimony, a "mindset to debunk" remains unfortunately active in the assessments of our missing in action. The so-called discrepancy cases are the cutting edge of the overall issue, since they involve the most important cases, literally a matter of life or death. Also, since some of these individuals may still be alive, new information frequently surfaces on the cases.

These cases are too important to be casually explained away. Convening frequent hearings, as contemplated by this section, ensures that the focus will be kept on these cases and that they will receive the attention they deserve.

Section 106(e): Penalizes any government official who knowingly and willfully withholds information related to the disappearance, whereabouts or status of a missing person from his case file.

The sad short of it is that too many POW-MIA families have been lied to by their government. In the past two years, this Subcommittee has heard a procession of family member witnesses testify as to their experiences in being misled, being misrepresented to, having information suppressed, being victimized by changing official stories or gross investigatory negligence, etc. These witnesses, we can assure you from our own knowledge, are only the tip of the iceberg.

Government officials have practiced these cruel deceptions for twenty and thirty years. It is a safe course of action because there are no reprisals. The proposed amendment would force officials to suffer consequences for continuation of such activities. And there should be no objection to the proposal. It is not unreasonable to expect that men and women entrusted with dealing with bereaved families should tell the truth!

Section 1507. Prevents a missing service person from being declared dead without credible proof or requires that if a body is recovered and is not identifiable through visual means, a certification by a practitioner of an appropriate forensic science that the body recovered is the missing person.

The history of the POW-MIA issue demonstrates that the government has been all too eager to rack up a "body count" of resolved cases. We have witnessed the paradox of an official "mindset to debunk" that all but automatically rejects any evidence of live prisoners of war in Southeast Asia but which simultaneously resorts to elaborate, flimsy proofs that men classified as discrepancy cases have died.

Further, during the war, mistakes were made in classifying missing service personnel. Nine servicemen were declared dead, but were later repatriated as POWs, according to government testimony before Congress in the early 1970s'. One of these nine had even been purportedly buried in a cemetery in St. Louis five years before he came home.

A good example of the importance of Section 1507 is the recent much-publicized case of Army Master Sergeant Mateo Sabog. The "Stars and Stripes" headline of last March says it all: "Dead Vietnam Sergeant Surfaces After 26 Years." This story also received major coverage by the mainstream print and broadcast media.

The Army had declared Sgt. Sabog dead in 1979, some nine years after he stepped off a plane from Vietnam in California enroute to a new assignment at Fort Bragg, NC. He was never heard from again until this year when he turned-up in Georgia applying for Social Security benefits. In April, 1995 the Pentagon had informed his family that remains believed to be Sabog's, including teeth, had been turned over by the Vietnamese government.

With the advances in the last decade in forensic science, most notably in DNA testing, it has become far less onerous to require forensic determinations. Once a person is declared dead, all live sighting reports that the person remains alive are dismissed out of hand. Before we write these reports off, we need to be certain.

Section 1513 (b). Permits civilian Defense Department employees who serve with or accompany the armed forces in the field under orders who become missing as a result of hostile action to be covered by the Act.

This is simple fairness. Civilians who serve in a combat zone are often as equally at risk as military personnel. I am personally familiar with several civilian POWs from the Vietnam War. They were subject to the same abominable conditions and the same torture as their uniformed counterparts. Civilians in combat zones represent the same national interests as do military personnel. They too have families and friends concerned about their fate. They should receive equal consideration from their government.

★ ★ ★ ★ ★
In summary, the importance of H.R. 4000 can best be illustrated by another recent news story. This one in the "New York Times", dated September 8th. Again, with a headline: "New Account Adds to the Mystery About the Fate of American POW's in North Korea."

While I have no first-hand knowledge about the credibility of these recent "sightings" described in the 6-column story on page 10, the fact that the New York Times published it confirms, in my opinion, the necessity of H.R. 4000; not just for veterans currently listed as MIAs', but for veterans of future military engagements, who may end up as POWs' or MIAs'.

My organization of over 350,000 members wholeheartedly supports and endorses H.R. 4000, the POW/MIA Protection Act. We thank Congressman Dornan and his 254 co-sponsors for moving forward with this much needed legislation.

Thank you very much for the opportunity to express our Coalition's views on this very timely-piece of legislation.

Mr. DORNAN. We appreciate that, and, to tell you the truth, Al Santoli needed to hear that today, on September 10, 1996.

Mr. Pickett, let me reemphasize or underscore something Tom Burch said. You have been a champ on these hearings. I have just appreciated your fresh look at this and your patience to wade through this, and you have seen Carol Hrdlicka before, and you were here for Donna's testimony before. The two civilians make a pretty compelling case.

This lovely lady just wasted away over months, Betty Olson, and died in Michael Benges's arms. She is in the dedication page of kind of the bible on all of this, book, "POW" by Reader's Digest senior editor John Hubble.

I had forgotten until I heard it again that Larry Stark shoot-out during that unbelievable offensive which broke the back of the American effort, because though we won it and literally destroyed forever the infrastructure of the Vietcong, the National Liberation Front, it was perceived over here as a loss. That was it. It was all downhill from there, even though when we were packing up and leaving in 1972, and I was over there for a month, it looked like we just had the whole thing won.

I think Donna's legal skill just shined here today, that I seriously am going to take you and Carol over to DPMO. If they won't give me a desk, I would like to borrow a conference table for a while and see why we can't resolve this, because I like to pick and choose my enemies, and I have a lot of enemies out there, and I have touched issues that people have said, "Don't touch this issue; they will destroy you." The homosexual issue is such an issue—homosexuals in the military.

I told some people that I don't understand that an adversarial relationship with me, as pro Pentagon and as pro military as I am and understanding of people's specific problems from CINCs down to a basic recruit who volunteers too readily, as I did as a basic recruit, and I ended up, colonel, my very first day, in the latrines for admitting I had some ROTC. ROTC training made me an instant colonel, and I regretted that, with razor blades and cleaning whole rows of commodes.

So, Mr. Pickett, fire away if you want to elicit anything from this excellent panel here.

Mr. PICKETT. Mr. Chairman, we started out today with the objective of hearing testimony on H.R. 4000, and I would have to confess since I am a cosponsor, I didn't need to hear any additional testimony in support of it; I am already on board.

But I would just say that the written statements along with the oral testimony that has been given here today is thorough, exhaustive, and complete, and I don't think that anything needs to be added to support this legislation. I believe that we have an ample record to support what it is that you are undertaking to do.

I don't have any questions of witnesses. I want to thank all of them and those that had to leave for the contribution they have made, because I think the record will speak for itself. It is clear and convincing, in my view. I just want to thank our witnesses that are here today.

Mr. DORNAN. Thank you. Well said. And Mr. Pickett and I this morning in a different setting, closed door setting, agreed that next

year, if we prevail here as cosponsors of this with—I think if I work the Democratic side of the aisle I can get past 300. It kind of comes under the heading of gilding the lily.

I think if we can find the vehicle—and Mr. Chapla is showing me the chairman's mark. Here it is prepared for Thursday for Floyd Spence, the chairman's mark for H.R. 4000, with an additional amendment that gives it an enactment date as, the minute President Clinton signs the authorization conference report, this becomes active; that then next year, if thoughtful Pentagon lawyers want to seriously, to use Pete Peterson's word, surgically carefully fine tune this, we will do this with input from the veterans groups, from the now active Korean Association, Cold War Association, with input from somebody who is a family friend, Carol, that has watched me punch in and out of this over three decades trying to figure out what is happening, and from civilians who stayed as active in the POW Association as anybody.

And Mike then said maybe I don't need a POW letter, but I was a POW nevertheless. Let's get together and get them that medal, because somebody in a fire fight watching people blown away, then bombed away during his travail as a POW, there is no reason that we can't give that medal because some bureaucrats in the Pentagon resisted a POW medal.

Remember what we have had to overcome in the beginning? A kind of attitude that, hey, I am not a POW because I knew how to fight differently and not become one, for getting Bataan and Corregidor and Wake Island and everything. There was an attitude to say, well—it was almost like a Bashiba warrior attitude, that we shouldn't have a medal for POW's because you are not supposed to be a POW; you ought to shoot it out until the end and take as many of them as you can with you, forgetting that sometimes people run out of ammunition and there is nothing to do except say, "Here I am, God. Why have you done this to me?"

So let's—you had one comment, Larry.

Mr. STARK. Mr. Chairman, I know it is late and we have been sitting here a long time. I appreciate those who are here as well as Mr. Pickett especially. Everyone else had reason to get up and go, but you stayed there through it, and I really appreciate that.

I have a couple of remarks to make which I feel are there from Larry Stark, and Larry Stark is solely responsible for them. You asked me before, Mr. Chairman, if I had any comments about the provisions of the bill. I have two comments, one about the revisions of the bill and one about a suggested change which we might add.

First of all, I want to say this: I have been in this thing since I got back home. My first day out of the hospital was to give a talk to a group of people wanting to know what it was like. I have been involved in the issue ever since. I have seen many people come and go.

If we are ever going to resolve this issue, the time is now, and you have heard that statement a thousand times. I mean it. The time is now. We have to change direction. It is time to stand up and be counted. It is time to call a spade a spade.

I have heard a lot of comments about John McCain. John McCain is not a friend of mine. I don't consider him a friend of mine. A friend of mine would not do what he has done. I would ask

you to consider your friendship with Senator McCain and also Senator Bob Dole—former Senator Bob Dole, now presidential candidate—to do the same. Friends don't act like that.

My opinion would be that Bob Dole should tell Senator McCain to drop it, to forget it, to withdraw it, and let this bill stand as it was because it is a good bill.

Further, I think we should do this: We should get the culprits. This is hard language. We should get the culprits, we should get the Trowbridges, we should get the Colonel Slaters. We should take Trowbridge—and I am a civilian employee of the Navy. I know that action can be taken against people who don't do their job right. Trowbridge is not doing his job right. He is doing it right by the orders he gets, but that is not covered under this bill and it is not covered for me.

Slater should be court martialed because he is responsible for the deaths of all those men that have died while we are talking about collecting information and analyzing information.

Donna, we can analyze and we can bring in a thousand analysts. That is not going to resolve the issue. What is going to resolve the issue is when General Clapper is out of there and out of there because you didn't do your job. We have got to change direction.

The first thing we have to do, in my opinion, is do this: We have to establish our priorities. Our priorities are wrong. I don't want to analyze information, I don't want to get additional people to analyze the information, but when information comes in in 1993 that we still have Korean POW's there, then, by God, we ought to do something about it, not today, 2, 3, 4 years later, we have to do something about it now.

So we need an action agency. We need somebody—DIA, CIA, military—somebody who is going to do something when this information is presented. Otherwise, it is going to be the same thing over and over and over again.

We have got to change direction, and the best way to change direction, I think, is to say, "Okay, you have got a credible live sighting report; maybe it isn't so credible; find out." We have to have somebody to go into North Korea, South Vietnam, Cambodia, Laos, whatever the case may be.

When I was in Laos in February, they gave me information about a man, a particular man. I have yet to get feedback on it. Another friend of mine, a Laotian, said, "I know an American who was a prisoner and living in Laos." And that is the kind of information I would like to give to somebody in the DIA and say, "Hey, I talked to this guy. I know exactly where this guy is. I know two or three times a month"—I am sorry—"every 2 or 3 months he comes into the store and buy provisions. He is living with this woman up in the mountains." We need to have somebody that I could take that information to and feel confident that he was going to do something with it, and we don't have that now.

So I want you to consider those things. And is there any way—is there any way that we could add something to the provisions that are already in the bill, not only protect those we have but add something that says something to the effect that, hey, when we find a live guy, then it is code blue. Everybody here knows what code blue is. Somebody is dying.

And we have got to make an extraordinary effort here. We have got to bring everybody that we need on this team together to find out how we are going to save this man's life.

Gentleman, ladies, there is a code blue here. Men are dying, guys from Korea, they are dying because of old age. We need to code blue this thing when we have a situation like that, and we need to be able to go in. Somebody has to create some kind of a group that is going to be able to go—by God, forget about the U.N. and all of these other—these are our men. If we know there is an American being held prisoner in some place, then we have the authorization to go and get them. That is international law. You don't need to ask. If they won't release them, you have the responsibility and the authority to go get them. I would ask you to consider those things and preferably consider them.

We need to stop doing what we have been doing because it hasn't been successful. As Candidate Dole said, if we were doing these things in a business way, we would have all failed a long time ago. I submit to you that we have failed in our responsibility to these men that remain and until we adapt this, get rid of the whole shooting match there at DIA, say either change or go. I am saying court-martial them. Don't let them go out the door and resign. Court-martial them. That can't be mistakes, bureaucratic problems.

What is happening at DIA is intentional. What John McCain is doing is intentional. Why he is doing it, I don't know, but somebody has to tell him as a friend or foe that, hey, John McCain, you are doing wrong. I don't know why you are doing wrong, but you are doing wrong.

Mr. DORNAN. Larry, your statement is eloquent because it comes from your heart. Let me ask your permission to do this. As you were speaking, I am sitting here thinking that I wish C-SPAN had a camera rolling so the Nation could hear your plea. With your permission, I would like to take out the line about McCain in the beginning, and when Trowbridge left June 30th, there were rumors that he was coming back as a consultant. More time spinning wheels, more money to be made and that will happen over my dead body either as Chairman or Ranking Member.

Clapper, C-L-A-P-P-E-R-, was head of DIA, long retired. But I am going to call him back in open session to ask where he thought he had the authority to say this must not go to Congress, writing off that serious document. Another one you mentioned, Slater, Joe Slater, is that the colonel? He is long gone.

There were rumors he—I just brought him up, forgetting his name. The worst one I have ever encountered that I thought was the most arrogant of anybody, and I remember a meeting in room H-139 where he was just telling off everybody was this Joe Slater. It certainly wasn't helping resolve this issue, but he is long retired. He is still around adding his 2 cents worth, but I did hear a brief rumor he was coming back as a consultant. No way.

Let me take out those names at the beginning and then I will take your statement and I will read it on the House Floor. I will find an hour for a special order somewhere between now and then, particularly the code blue part to let people know what I have been saying for years, that I have never understood the time factor.

I chewed out Clapper's predecessor, Lieutenant General Gene Tighe, who was a good man on this. I asked him what happened with the two Vietnamese boat people in Australia that had live sighting reports. "Have you talked to them yet?" And he said, "I got to apologize, we haven't gotten around to that."

I said, "That was 60 days ago, General. Suppose that was your son down there. Time is of the essence here. Get down there now. I will have somebody there in 72 hours." That was 1977 and that was the attitude of a good guy; we didn't get around to it yet.

There has been no feeling of the importance of months and the passage of time on this. So do I have your permission to take out the names so it is not a personal attack on the floor on anybody, even guys who deserve it like the arrogant one we both agree on, and I will get your statement from the recorders and verbalize it on the floor.

Mr. STARK. You have my permission to do it on the floor. However, I would like to leave it in the written statement.

Mr. DORNAN. Absolutely. It stays in the written statement. If I were some of the people involved here I would read with interest, but the die seems to be cast and they don't care.

Mr. STARK. And the one correction, I got a little wound up there. The one correction I would make is that the current head of the DIA, he is just as bad if not worse than the rest, and that is Bolt. My remarks really are directed at the current regime as well, and specifically.

Mr. DORNAN. Tom or someone said this problem started with the DIA and that is too bad because when I read the National Intelligence Daily and then read the Defense Intelligence Daily, now they call it the Military Intelligence Daily, I get sometimes better intelligence out of that than the composite of NSA and CIA. It is just good.

I have always appreciated in the field, on a trip—Owen has been on trips—where when the country team is through with you and you kind of pair off with defense attaches, you get sometimes the bull and the diplomatic niceties are stripped away and you get some really good information and reports out of them.

The current three-star probably is so happy to be rid of this. That came out of the Senate Select Committee. Now, they have this DPMO office, moved out of the Pentagon, moved out of that dead-ended hallway. Now, they are in Crystal City, expensive offices there, 100 slots, 89 filled, a relationship with the Joint Recovery that answers to CINCPAC in Hawaii and they have teams now in Laos and Cambodia and Vietnam and Bangkok. You are right. Now is the time to solve it.

I want to thank all the family members and some concerned citizens for being so patient and staying with us. I have accomplished what I hoped to today, a good hearing today, a private one to say let's stop this "us against them" thing. Then, we will have the hearings next week and we are going to have some analysts there that it has cost them their career and you will find what they have to say fascinating because Russia, I believe, was burned off by alerting liars, Communist liars who are still Communists in their hard brain. They just don't have a system any longer that they pine for.

We burned that off and we burned off something in France that was very beneficial to add to the Vietnamese experience and to short-circuit for political reasons some bureaucracies and agencies because of the jealousies and intelligence sensitivities and go directly to something that would have been beneficial. That has been wrecked by "boy wonder" analysts who can't add up 2 and 2 and get a coherent 4.

So we have a lot of work to do. Next year, we are not going to let the portfolio slip away from the Military Personnel Committee. Anybody alive in Korea, they are on active duty, still serving under Old Glory and one of those service flags, so it should be at the Military Personnel Committee. It is not procurement or acquisition, it is not readiness, they are not ready to do much except hope their country will bring them home. It is not installations and it is not R&D. It is personnel. It should have never left this committee.

They should have come to some resolution after Korea and there were some good Congressmen and Senators working on this and they either got defeated or retired or they were diverted by other duties and the whole thing slipped away, and I hope to get at that through Philip Corso, who is 82 years old and sharp as anything, unless he is trashed or wrecked somehow because it jeopardizes somebody's analysis to have him speaking out about Korea and telling stories out of the Oval Office, that decisions were made out of fear of a nuclear war. I hope we have that Cabot Lodge speech. Did we get that speech in the Library of Congress?

Mr. SANTOLI. I have requested it.

Mr. DORNAN. We will get the Lodge speech where on the Floor of the U.N. he says there are live people in Korea and the media didn't pick up on it.

Thank you very much, ladies and gentlemen. I will stay after—Carol, you get to close.

Mrs. HRDLICKA. I wanted to make one quick observation on Larry's code blue. That is the point the DIA and all of them are in the slomo hoping all of the men will die.

Mr. DORNAN. Well, a live siting report should be treated the way police departments treat the words "officer down" and everybody goes. That is what it used to be in Vietnam when they said somebody is down. Since it was a no-win slomo war, every single package of bombers, ships stopped what they were doing, got in line behind the tankers to cap somebody who was down. Once they blew the whistle in Paris then the attitude of all for one and one for all, somebody is down, I got a beeper here; I will close on this. It shows how fast I move along and forget to do things.

I got so fascinated reading about Major Earl Cobeil that I asked for his file and I finally got it. He is not Earl, he is Glen. He didn't use his first name. There is his wife, Pattie. Come up and take a look at this afterward. Suddenly I see his face. I have talked about this guy on the House Floor umpteen times. I never knew his face. He is not a pilot, he is an S hot electronic warfare officer, flew B-58 hustlers, the only supersonic bomber we have ever had until they took a tactical bomber and put a D in its name, the FD-111.

McNamara killed the B-58 hustler. That was his job. Guess what; his back seat in the world's biggest fighter, the F-105F model, and why did he stand up to them on the code of conduct.

I am taking peeks at this while you are giving testimony. Because he was just out of EWO school and assigned to Toclee and went to survival school in theater in October; October—I will find the date he graduated—and was shot down 10 days after McCain.

When McCain is shot down he is in survival school telling them how to be tough and how to resist interrogation. So this young captain got shot down on one of his first missions, obviously, and here it says his beeper is up. The Vietnamese say he was injured when he bailed out. It says resulting when his parachute hit his aircraft, causing serious mental deterioration.

The Cubans beat him into this mental deterioration. He died from acute inflammation of the lungs which happened to Bill Buckley in Beirut. They beat him so badly you get water in your lungs and you die from a type of pneumonia. It says inflamed cardiac muscles, that comes from torture, and it says he died on the very anniversary of his shoot-down 3 years later. A few missions and 3 years and a month after coming out of survival camp, he dies. He was buried in a cemetery, and all they put on his gravestone was tran van bee, which are his initials, EGC. Then he was dug up and reburied in another cemetery in Haboc Province on January 4, 1973. Personal effects, none, because there was nothing left, not a letter from his wife, nothing, and then his body was returned at some point and I don't know where he is buried.

He tried to resist and tried to be tough because he was a brand-new guy, and I am going to contact Pattie and now his kids, Jody and Jeffrey, are like you, Donna, big, grown-up, adult kids because this is 30 years ago. So I can add 30 years to those two little cute faces there. This picture in his Air Force uniform was taken just before he was assigned to go over and he flew out of the 333rd Squadron, a squadron I tracked because I liked all those threes.

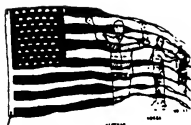
He was 33 years old when shot down. David Shelton was shot down on his 33rd birthday. Now Earl—Glen Cobeil is a person to me and not just the name of a guy that the Cubans savagely beat into an incoherent state, and just like the men from the Indianapolis who saw the enemy in the faces of their fellow men suffering from the shark attack, he told the men in the cell trying to feed him, you are all Russians. They cut the faces off my friends and put them on your faces. You are all Russians here and you are trying to break me. That is what the Cubans did.

Finally, I got somebody today to stop saying Cubans in quotes, admitting, yes, they were Cubans. There are a lot of facts still to come out and I will just keep plodding along with your help. Thank you, Tom. Glad to see you out on the trail. Thank you everybody.

[Whereupon, at 6:10 p.m., the committee was adjourned.]

[The following information was submitted for the record:]

**STATEMENTS
SUBMITTED
FOR THE
RECORD**



NATIONAL ALLIANCE OF FAMILIES

FOR THE RETURN OF AMERICA'S MISSING SERVICEMEN

WORLD WAR II • KOREAN WAR • COLD WAR • VIETNAM WAR

POWS-MIAS

SEPTEMBER 9, 1996

The Honorable Robert K. Dornan, Chairman
Sub-Committee U.S. Military Personnel
1201 Longworth Building
Washington, D.C. 20515
FAX: 202/ 225-1990

Dear Chairman Dornan:

The membership of the National Alliance of Families stands firm in its support of H.R. 4000, "The POW Accountability Act" of 1996. The changes brought about by the "McCain Amendment" to the "MISSING SERVICE PERSONNEL ACT" of 1996 are detrimental to the safety of our American personnel both military and civilian, past, present and future.

We thank you for giving Mr. Michael Bengé, member of the Board of Directors of the National Alliance of Families, the opportunity to speak on behalf of American civilians who may one day find themselves, Prisoners of War/ Missing in Action, as Mr. Bengé did during the Vietnam War. We agree with Mr. Bengé when he states that all civilian government employees be protected under H.R. 4000. We urge you to consider his suggestion that H.R. 4000 be expanded to include all government employees and other civilians providing support to U.S. Government efforts.

The families of our POW/MIAs lobbied long and hard for the passage of the "Missing Service Personnel Act" of 1996. We will devote the same energy to assure passage of H.R. 4000.

Chairman Dornan, we thank you for your dedication to our loved ones! With your leadership we believe H.R. 4000 will restore the provisions of the "Missing Service Personnel Act" of 1996, gutted by the "McCain Amendment".

Sincerely,

Dolores Apodaca Alfond
National Chairperson

PS. Original via U.S. Postal



Vietnam Veterans of America, Inc.

1224 M Street, NW, Washington, DC 20005-5183 • Telephone (202) 628-2700
 Faxes: Main (202) 628-5880 • Advocacy (202) 628-6997 • Communications (202) 783-4942 • Finance (202) 628-5001

A Not-For-Profit Veterans Service Organization Chartered by the United States Congress

August 28, 1996

Honorable Robert K. Dornan
 U.S. House of Representatives
 1201 Longworth House Office Building
 Washington, DC 20515-0546

Dear Congressman Dornan:

On behalf of Vietnam Veterans of America (VVA), I write to request your support of H.R. 4000, a bill that will protect missing service personnel in future conflicts. VVA strongly urges you to cosponsor this legislation and encourage the House leadership to put H.R. 4000 before the full House prior to the adjournment of the 104th Congress.

When the Missing Service Personnel Act was signed into law last January as part of the 1996 Defense Authorization Act, it capped several years of extracting lessons from recent wars to create sound policies and procedures for handling missing in action service personnel. We need your help in preserving that work.

Unfortunately, conferees for the 1997 Defense Authorization Act made several significant and, we think, unwise changes in the 1996 law. These changes remove or reverse key provisions that secured the rights of POW/MIAs and brought a measure of accountability into the process. No group of veterans knows more about how divisive and bitter the unsettled questions about the fate of missing-in-action military personnel can be. Had such a law been in place during the Vietnam War, many of the over 2100 unresolved POW/MIA cases would have been resolved long ago, and their families allowed a sense of closure and dignity for the loss of their loved ones.

The House has supported the language H.R. 4000 contains in both the 1996 and 1997 Defense Authorization bills. We believe a very strong showing in sponsorship and floor votes for H.R. 4000 would send a signal to the Senate that could not be overlooked.

Thank you for your consideration of this timely and sensitive matter.

Sincerely,

James L. Brazee, Jr.
 National President

STATEMENT of RECORD

Roger Hall
Information Researcher
September 10, 1995

To The
The Committee on National Security
House of Representatives, 104 congress
Military Personnel Subcommittee, Robert K. Dornan, Chairman

Freedom of Information Act and Executive Order Violations of
Vietnam Era POW/MIA Information

A report on research efforts for Vietnam era POW/MIA documentation and the refusal of U.S. government departments and agencies to fulfil their responsibilities for the ordered release of POW/MIA documentation under Presidential Executive Orders, the Freedom of Information Act and orders of Congress. It becomes obvious that without responsible enforcement with sanctions and penalties government agencies and employees avoid complying with the Executive orders of the President and the Acts of Congress.

Presidential Decision Directive (PDD) #8 [an Executive Order] applies to the declassification of all Vietnam Era POW/MIA documentation in accordance with President Bush's Executive Order (E.O.) 12812 by Veterans Day 1993, it is ignored by executive agencies. The National Security Council (NSC) issues the E.O.'s and each agency and department is then responsible for its own Administration of the orders. Executive order 12958 issued in March 1995 supersedes Executive Order 12356. E.O. 12958 is not being complied with by some agencies that continue to use E.O. 12356 as the declassification authority. There is no enforcement to comply.

Each agency and department of the U.S. Government is responsible for responding to Freedom of Information Act (FOIA) requests and to grant or deny any or all of it according to the Act. FOIA appeals are administrated separately within each agency. If a FOIA appeal is denied litigation is the recourse to secure the requested information, including when the military and government have not properly complied with the FOIA. This is time consuming, difficult, and expensive. The intent of the FOIA is based on our right to known in a free society. The practice by some in the military and government is to suppress information because of past errors, or because it interferes with other requirements of their office. The FOIA is not complied with because there is no enforcement and it is the first to suffer cuts in budget and personnel.

The E.O.s require the release of Vietnam era POW/MIA information, the requesting method is the FOIA, the exception category of immediate release of POW/MIA information under PDD #8

is not waived, nullified or abolished because of a FOIA request. The information is to be released in accordance with the priority of the Chief Executive, not refused at the convenience of the employees. The Executive Order standards precede the FOIA, they are not part of the FOIA. The subordinate offices of the President do not have authority to redefine an executive order, but they do as a matter of office policy. The executive orders determine which information is to be declassified, the laws only determine how. The POW information was order released by the President of the United States.

The FOIA process has been wrongly used as a way to deny and delay the release of POW/MIA information. FOIA requests are not given the required consideration for the information requested and are denied with the intent to dissuade the requester from his efforts. FOIA responses do not include the search for classified information requested as required by the FOIA, and the requester is informed that the information does not exist without a proper search to verify. PDD #8 is ignored because the deadline of Veterans Day 1993 is past and FOIA offices wrongly no longer feel required to prioritized POW/MIA document declassification.

After PDD #8 was issued Memorial Day 1993 requests were submitted to the National Archives and Records Administration (NARA) for the Mandatory Declassification Review (MDR) of Senate Select Committee on POW/MIA Affairs (SSC) records/documentation that had not been declassified and released as intended by the SSC. The former Central Declassification Office was ordered to remove NSA and CIA agency identification from documents being declassified to be sent to the Library of Congress (LoC). Documentation alleged to be at the LoC by the NSA and CIA is not retrievable by design of the agencies required to make the documentation retrievable under law. The hidden documentation is now used by the CIA and the NSA as an excuse to not comply with FOIA requests because they fraudulently claim they have made it available there. This cheap trick is unworthy of an agency of the United States government on the citizens of the United States. This illegal activity is ignored in appeals to the agencies. The information hiding is a problem of management falsely or incorrectly informing executives to maintain a previous position, even when proof is presented and the agency alerted. Information is held classified in defiance of the orders for its release and its existence denied in some cases without the opportunity for mandatory declassification review.

The National Security Agency (NSA) Alleged information at the Library of Congress is a deception to the public. NSA [supposedly] released documents, but prevented their proper identification by ordering DoD to remove the agency identification [as reported by LTC. Bud Matthews and Ed Sprague], thereby denying access to the documents by deliberate and devious means undermining the orders of the Presidents. NSA now refuses FOIA requests for POW/MIA information because all POW/MIA information was said to be sent to

the Library of Congress. Even the Library of Congress cannot identify that they have it because the identification was removed.

The removal of the identification of the originating agency is in violation of E.O. 12812 [for library like retrieval of information and redaction of information]. Such removal of the originating agency prevents a FOIA requester further access to the information [if it was found] because the originating agency cannot be identified and addressed. No agency but the originating agency will address an issue of a document. The NSA also refuses to declassify POW/MIA documents from the National Archives under the Mandatory Declassification Review requirements (MDR) of the FOIA and E.O. 12958.

POW/MIA documentation sent to the NSA for MDRs is not being declassified. The Senate Select Committee on POW/MIA Affairs assured the American Public that all of these records were declassified and were being made available to the American Public. There are some previously declassified records sent to the LoC but they are not identified. The NSA must be able to identify what records it previously declassified that were sent to the Archives, and declassify the rest. The law requires that the NSA keep track of the records they declassify, they do not acknowledge this in an attempt to obstruct the mandatory declassification process.

The State Department refuses to comply with PDD #8 and insists that a request under the FOIA is ineligible for the required timely release of POW/MIA information under PDD #8, even though a FOIA was the required way the State Department instructed the request be made when PDD #8 was invoked. State claims that the POW/MIA records that they declassified and released were all such documents. State then ignores the identification of, FOIA requests for, and requirement to see to the release of additional POW/MIA documentation. The State Department further neglects its responsibility in responding to FOIA's in an honest and timely manner as required. The State department controls withheld documentation on military personnel. FOIA requests submitted in the summer of 1993 have not been acted on to date.

Former CIA Director Woolsey incorrectly informed the President of the United States on Veteran's Day 1993 that all CIA held POW/MIA documentation had been declassified as ordered. CIA Director Woolsey either lied or had been manipulated by CIA management to inform President Clinton the declassification had been completed when in fact it had not, the CIA FOIA stated to me in writing on January 14, 1994, two months after the PDD 8 deadline that they had not even completed the agency search for the POW/MIA records . (See attachment paragraph 3)

Furthermore the CIA maintains data they, by design, avoid searching for because information files are stored by methods that differ from an uninformed requesters experience to know (both hard

copy and computer files). Record identification requires knowledge of privileged information, and even if that information is unclassified it is not available for a requester to use. The CIA will not perform a reasonable FOIA request for classified documentation, identified by documentation from the Joint Chiefs of Staff, and acknowledged to me as existing but still classified by Admiral Zumwalt and Admiral Moorer. The CIA claims that they did an agency wide search for POW/MIA documentation, therefore if it existed it would be at the Library of Congress, and they are not required to search for it. The CIA to this day is still denying documentation for mandatory declassification review under the old E.O. 12356 and not under 12958. They deny documents in total without releasing the "Reasonable Segregation" obligation under subsection (b) of the Act, 5 U.S.C. 552. This requirement was added to the Act FOIA through the 1974 amendments to the Act. (U.S. Department of Justice, FOIA UPDATE, The Reasonable Segregation Obligation, Summer/Fall 1993). POW/MIA information was ordered released and is subject to compliance if there was a reasonable means of enforcement. This information is on military personnel.

DoD employees who decide which documents can be released to families withhold documents that should be released to those family members.

POW/MIA FAMILY CASE #1 Mrs. Carol Hrdlicka was deceived about information on her missing husband, recent private effort research located and obtained information on David Hrdlicka in captivity. That information had been withheld from her and she had been constantly lied to by some DIA employees.

On March 16, 1995 a FOIA request #441F-95 was sent to the U.S. Army Intelligence and Security Command (INSCOM) at Ft. Meade, MD as the result of documentation located at the Library of Congress. The document was a June 1990 Information Report to an organization addressed as CDRUSAOPSGP FT. GEORGE G. MEADE MD//IAGPC-L/IAGPC-CM//. That address was identified to me as a DIA office symbol by FT.MEADE personnel and that I must send A FOIA to the INSCOM FOIA office. The seven page report stated that a source "claimed that the Pathet Lao Commander of the 11th Regiment at Kham Keut //geocoord [redacted] Kham Moname Province was suspected of holding 'D. Hrdlicka'." was attached to my FOIA request. The INSCOM response to my FOIA was 13 pages of 1965-66 data on David Hrdlicka. They did not even attempt to secure the information on the request I sent in as the authorized researcher for Mrs. Hrdlicka. During a telephonic inquiry with a Gene Reiley of INSCOM'S FOIA office she checked with her supervisor and was in seconds told that the information was to one of their DIA offices. Mrs. Hrdlicka was not informed of the information and it is still withheld from her, but the document I located at the LoC is information she was never informed of either. I am appealing the FOIA to have it properly answered to including the appropriate information about the reported incident. To put the burden of tracking down hidden files when the recipients address is given is another example of an

uncooperative process designed to deny and delay access to information ordered released.

POW/MIA FAMILY CASE #2 A POW/MIA Primary next of Kin has had information in her husbands file kept from her and informed that the files she had access to was all known information. The government employee [name will be made available to the committee] who declassifies ASA information, informed me telephonically, he didn't declassify some documentation because he "didn't think she needed to know."

POW/MIA FAMILY CASE #3 Information on Donald Carr a POW/MIA existing in the withheld Studies and Observation Group (SOG) daily summaries is kept from the Carr family as is much other POW/MIA information on other POW/MIA cases.

The continued denial of information is contempt of the E.O.'s and FOIA and is cruel and inhumane to the POW/MIA families.

The Joint Chiefs of Staff (JCS) holds some classified heretofore not released documentation containing POW/MIA information including the SOG daily summaries [on the secret war in Laos], Project 404, and project 5310-03-E. The Department of Defense Prisoner of War and Missing in Action Office (DPMO) has assisted in identifying the location of the SOG daily summaries that are in the appeal process at the JCS. Even though the SOG daily Summaries are in the Appeal process at the JCS, the JCS does not have them listed in their appeal files. This information has been illegally withheld since Veterans Day 1993 and denied to the SSC. The JCS has willfully prevented the ordered and lawful release of this information. They also hold other documentation including duplicate documentation of organization POW/MIA records that were destroyed in Vietnam or lost in transit from Vietnam.

Government must be prevented from destroying documentation as was done at the American Embassy in Thailand, documents denied to the Senate Select Committee on POW/MIA Affairs, a committee of Congress, was the very information the committee was established to investigate. This was a deliberate withholding of information, obstructing an investigation by Congress. The Thai Embassy information is still withheld from the LoC, although the LoC is identified as the repository of all POW/MIA documentation. The Department of Defense does not make a honest or sincere effort to locate, obtain or release identified and existing POW/MIA information.

Army INSCOM and the DIA cannot locate for declassification POW information that exists because the POW category does not exist, nor can they locate the POW/MIA information by the originating agency for FOIA requesters. No legitimate database can be so poorly designed to comply with the law, it is designed to avoid the FOIA requests.

Some documentation still withheld are the records of:

DoD

- *525th Military Intelligence Group (MI GR)
- *500th Military Intelligence Group (MI GR)
- *7602nd Air Intelligence, USAF
- *Joint Personnel and Recovery Center (JPRC)
- *Combined Military Interrogation Center (CMIC), only the first two years of these activities have been released.
- *Army Security Agency (ASA) records are still withheld
- *Breakfast Meeting of Sec. of Defense Laird, POW/MIA information was discussed at these meetings.

Retired Special Forces Sergeant Major Norm Doney has reported to the Defense POW/MIA Office on a communist POW Camp in Laos that American POWs were held at, that were not returned. Photography exists that showed the faces of captives identified as American. Sergeant Major Doney was there, saw the prisoners identified as American's, he should be called to testify before the full congress. Information on this matter would be found in the SOG daily summeries and other SOG records. There has not been a tasking to determine from the U.S. Government or the Laotian Government where these American's were taken after the war in Southeast Asia ended.

State Department and CIA

- *Records of the Air Attache in Laos
- *CIA documentation of American prisoners in Laos
- *CIA POW/MIA reporting to Ambassador in Laos
- *POW/MIA information from CIA/State private channels

There is some documentation from these organizations available at the Library of Congress but they are only a subset of customer copies found in other unit records. They are not the records of the originating units, and not complete. The POW/MIA documentation from these records is illegally withheld.

The U.S. Congress has not declassified most of their past POW/MIA committee documentation that is under 20 - 25 year classification. Neither the House or Senate has felt the need to declassify all committee POW/MIA information including that of the intelligence committee's. Information on American prisoner's held by another country is to be released regardless of their present status.

Efforts of Congress when they occur in the past have been short lived and the FOIA is being worn down to be a quick fix because there is a lack of enforcement. Even the SSC which investigated and declassified so much in only one year, did not have time to find answers it was looking for, and had to compromise in its reports. Information was also withheld from the committee until it was too late to be considered in the committee "REPORT."

The ways of military and government bureaucracy resist the

orders of elected and appointed officials that attempt to run government. In the case of the POW/MIA issue some career employees have maintained their past position and resisted even efforts of the Presidents to release POW/MIA information held by government on missing american's. The identification of mistakes and errors by career employees is not career enhancing. Without enforcement and sanctions for those defying the laws of this land employees and some self serving individuals will not comply as required.

Where is the integrity of the United States government? Congressional orders and Executive Orders are ignored, Congress and the White House do not follow up on complaints about the violations that have occurred, oversight is necessary.

The operation of government is not to be to the detriment of the people. There has not been a reply to the American public on the true fate of some civilian and military POW/MIAs. The American people sent citizen soldiers and others on this nations business. The POW/MIA problem must be subject to public scrutiny through the Congress and access by the public to records that are withheld and wrongly denied. There must be enforcement with penalties on agencies and individuals who deliberately prevent the release of POW/MIA information. To leave the matter of FOIA and Executive Order violations to citizens with limited resources results in resistance from government FOIA offices. Those FOIA offices then apply government resources against American citizens. They become involved in preventing release unless complied to release such information.

Enforcement of Executive Orders is non existent where agencies and departments resist compliance. There is no one to complain to or method of recourse when agency contempt of E.O.s occur.

The Information Oversight Office claims it does not have authority over POW/MIA information and refuses to exercise responsible. Complaints are ignored if an agency feigns their compliance.

The Department of Justice is responsible for the FOIA, issues guidance on the FOIA and defends the departments and agencies in Court. The Justice Department can intercede on the part of FOIA requesters if agencies are in violation. Getting the problem to their attention is tough, getting truth and enforcement remains to be done. A recent effort to have the Justice Department FOIA section inquire on the CIA refusal to release documents resulted in an incompetent inquiry and review of the Library of Congress microfilm collection. Their results stated that CIA documentation at the Library of Congress represented that CIA did release documentation there and they would do nothing. This was pre 1973 information and information to be released under E.O. 12812 is not at the Library of Congress and can not be located. Justice turned its back on the American public. Their position to defend the

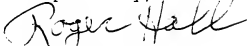
agencies has compromised the requirement to the American public. There is a conflict of interest.

The POW/MIA documentation problem requires a Government Accounting Office (GAO) inquiry into the application and oversight of the FOIA in addition to Justice lack of enforcement because of the rampant disregard for the orders of the Presidents of the United States and acts of the United States government. The agencies defy the release of documentation until intervention is now required. Fraudulent acts by some government employees to deceive the public in spite of official (Executive) policy, and the FOIA requires intervention by investigators independent of each agency. A Government Accounting Office audit would identify agency noncompliance for the Congress so that a better understanding will lead to proper enforcement. There must be:

- *Enforcement of the FOIA in releasing POW/MIA documentation
- *Serious enforcement by congress to have witnesses produce required information
- *Enforcement of Executive Orders
- *Penalties for offenders.

The American people are not to be subjected to this oppressive obstruction by some military and government employees, this is unacceptable in a free society and undermines the government of the people. Please impose sanction for any offenders. The military has the responsibility to report the wrongs of orders and organization policy to not release information.

Respectfully,



Roger Hall
8715 First Avenue, Apt 827
Silver Spring, MD 20910

301/585-3361

Central Intelligence Agency



Washington D C 20505

13 JAN 1994

Mr. Roger Hall
8715 First Avenue
Apartment 827
Silver Spring, Maryland 20910

Reference: F94-0036

Dear Mr. Hall:

This is to acknowledge receipt of your 5 January 1994 Freedom of Information Act (FOIA) request for "information on S.E. Asia POW/MIAs (civilian and military) that have not returned even if they are not now held in prisoners status."

With respect to the overall subject of your request regarding MIAs and POWs, we have enclosed machine printouts obtained under the titles of MIA, POW, Prison and North Vietnam which list previously released documents on the overall subjects of your request. You may review the printouts, keeping in mind that there may be duplicates, check those items you wish, return the printouts to us, and we will gladly reproduce whatever items you choose for a cost of ten cents per page less the first 100 pages to which you are entitled free of charge as a requester in the "all other" category. We will bill you when we mail you the documents you choose. Also enclosed is a copy of our schedule of fees. Since the FOIA does not require federal agencies to conduct research on behalf of requesters or review records to see if they pertain to a specific event, activity, incident or individual, it will be your responsibility to review whatever items you choose to see if they pertain to the specifics of your request.

For your information, we are also working to comply with Executive Order 12812 wherein former President Bush directed all executive departments and agencies to review all documents, files, and other materials pertaining to American POWs and MIAs lost in Southeast Asia for the purpose of declassification. The review of this material is still in progress. As the reviews are completed, the releasable material will be provided

Robert Chin

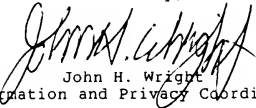
to the Library of Congress for indexing and placement in various libraries throughout the United States. Accordingly, some of the releasable material has already been provided for indexing.

And finally, with respect to any other information regarding the subject of your request, since the Department of Defense (DOD) has the primary responsibility for POW/MIA matters, you may wish to submit your request to DOD at the following address:

OASD/ISA (POW/MIA)
Room 4C839
The Pentagon
Washington, D.C. 20301

We trust that the information provided will assist you in your endeavors.

Sincerely,



John H. Wright
Information and Privacy Coordinator

Enclosures

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